



New York City Campaign Finance Board

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**Testimony of Frederick A. O. Schwarz, Jr.
Chairman
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**City Council Committee on Governmental Operations
February 26, 2007**

Good morning, Chairman Felder. I am Fritz Schwarz, Chairman of the New York City Campaign Finance Board. With me today are Amy M. Loprest, Executive Director, Carole Campolo, Deputy Executive Director, and Julius Peele, Director of Auditing and Accounting.

Thank you for providing this opportunity to testify on the Board's audit practices.

The New York City Campaign Finance Board (CFB) is charged with reducing the influence of large private contributions in the political process by providing public matching funds to campaigns. Since the first election conducted under the Campaign Finance Program in 1989, the CFB has distributed more than \$95 million to 719 campaigns for City office.

In exchange for this public funding, the Campaign Finance Act places reasonable conditions on its use. While all candidates must observe limits on the size and sources of contributions, campaigns that seek taxpayer funds must observe restrictions on the way they are spent, and on the total amounts of their spending.

Campaigns must also provide full and detailed records of all funds raised and spent. The Program requires campaigns to file timely disclosures of their finances with the CFB. After each election, the CFB conducts thorough audits of all campaigns. These audits accomplish three primary purposes.

First, the audits help safeguard public funds and ensure they are used properly. When the City Council created the Campaign Finance Program in 1988, they had the foresight to protect the taxpayers by mandating rigorous CFB oversight on the use of public funds, in §3-710 of the Campaign Finance Act.

When violations are found, the Board assesses penalties or requires repayment of taxpayer funds. The Board has recovered over \$2 million for the taxpayers in penalties and repayments from the 2001 and 2003 election cycles alone. From those elections, CFB audits have uncovered 12 cases of fraud and misrepresentation, some of which have resulted in jury convictions. In one example, a candidate attempted to defraud the taxpayers out of \$40,000 in matching funds by representing a single \$10,000 contribution as separate, \$250 contributions.

Second, audits help guarantee the quality of the campaign finance information the Board provides to the public. The campaign finance disclosures required by the Board provide the public with access to complete and immediate financial information about candidates for City office that is among the most thorough in the nation, at any level of government.

Last but not least, the comprehensive audits performed by CFB staff ensure that election campaigns are run on a level playing field. If a violation goes undiscovered, a campaign that does not comply with the Act may gain a competitive advantage against an opponent that more completely observes the law. That is why every campaign is given the same high level of scrutiny.

Still, the culture of enforcement established by nearly 20 years of CFB practice encourages the vast majority of campaigns to make good-faith efforts to comply with the law. To help each campaign comply with these obligations, CFB staff provides detailed guidance throughout the campaign and through the post-election audit and hearing process.

Before the election, the CFB offers regularly scheduled compliance training sessions for candidates and treasurers. Representatives from 151 campaigns attended group

training sessions during the 2005 election cycle; another 13 campaigns attended individual training sessions with staff from the CFB's Candidate Services Unit (CSU).

These training sessions are designed to familiarize campaign workers with the practical, day-to-day requirements of eligibility for public funding: maintaining basic records, obeying limits on contributions and expenditures, and the like. They also familiarize treasurers with the C-SMART software campaigns use to disclose their finances to the CFB.

Each campaign is assigned a CSU staff liaison, who is available for consultation by telephone, in person, and via email. Starting in 2006, CSU has also provided post-election Audit Training Seminars to assist campaigns in responding to their draft audits. To date, representatives from 39 campaigns have taken part.

All campaigns are audited, whether they participate in the Program or not. While non-participating candidates are not bound by the overall spending limits that apply to participants, audits of non-participating campaigns ensure they are observing the universal restrictions on the size and sources of contributions. Additionally, spending by a non-participating campaign can trigger additional public matching funds for an opponent.

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I'll briefly describe the audit timeline now. The audit process begins with the first disclosure statement filing. After each disclosure statement is filed, CFB audit staff conducts an initial review of each statement. This initial review may uncover simple violations, find invalid matching claims, or determine if the campaign has met the threshold for public funds. Campaigns may respond to the issues raised by these initial reviews, and make corrections. This process is repeated with each disclosure statement, and campaigns may respond to new issues as well as previously existing issues when answering these reviews.

During the election year, the CFB conducts site visits to the campaign, to verify information the campaign has provided. During these visits, CFB staff may review the campaign's compliance efforts and advise campaign staff on proper record-keeping.

In an election year, public funds payments are made within four days of the applicable disclosure filing date. While only the most serious issues result in a denial of public funds, even within this short four-day time period, the campaign is given an opportunity to work with CFB staff to resolve those problems that would block payment of funds.

After the four-day review, the campaign receives a more detailed review of its statement, including lists of invalid matching claims, and is given another opportunity to respond.

After the primary and general elections, staff begins post-election audits of each campaign. Over the course of the audit, CFB staff may ask the campaign to provide further details about its activities. Most often, these questions are posed as requests for more documentation; if a campaign has kept proper records throughout the campaign, responding should be a simple task.

During the year after the election, the campaign receives a copy of its draft audit report, and is then given an opportunity to respond with additional documentation. Often, a campaign is able to fix some of its compliance issues; in some cases, a campaign's response to the draft audit can demonstrate full compliance

If a campaign fails to meet the conditions placed upon the use of taxpayer funds, there are consequences. If a campaign finds and remedies a potential violation before it is found by the CFB, penalties can usually be avoided. But in cases when a campaign fails to respond to potential violations of the law, penalties are recommended.

If the campaign still has unresolved problems after responding to the draft audit, a preliminary finding of violation is referred to a committee of CFB staff comprised of personnel from the Audit, Legal, CSU and Press Units, representing a broad range of

perspectives. After the committee meets, the campaign is notified of any recommended penalties, and has yet another opportunity to show compliance.

Throughout the election cycle, the campaign has many opportunities to respond to problems that could lead to a finding of violation before a penalty is assessed and a final audit issued—after the statement reviews, the initial requests for audit documentation, the draft audit, and the notice of recommended penalties, and more informally through the site visit or correspondence with CFB staff, and ultimately, in an appearance before the Board. In proceedings before the Board, sometimes the Board agrees with the campaign, and sometimes not. If the campaign is able to correct specific items, penalties can be avoided altogether.

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CFB staff strives to complete the audit process in a timely fashion without compromising the integrity of the work. An analysis of audits for City Council campaigns since 2001 shows that the CFB has been successful. After each election, processes have been reviewed and improved, and audits have been completed progressively earlier.

By the end of 2002, the CFB had sent two-thirds (190 of 283) of the draft audits to candidates in the 2001 election. After the 2001 election, Board rules changed to mandate that draft audits be sent to campaigns by the end of the calendar year following the election “to the extent practicable.” The CFB met that requirement for the 2005 election cycle, with the exception of a small number of audits involving substantially more complex issues, completing 196 of 207 audits.

Final audits are being completed earlier as well. By this date four years ago, less than 30 percent of all campaigns (83 of 283) had been issued their final audits from the 2001 campaign. As of today, the CFB has issued 105 final audits (of 200) from the 2005 campaign; more than half of the campaigns have completed the audit process.

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The New York City Campaign Finance Program is viewed as a model for the nation because of its vigilant stewardship of taxpayer funds. Because of our audit and enforcement expertise, CFB officials have been invited to provide assistance to ethics agencies in London, Bosnia, and Nigeria—just in the last two years.

Still, the Program's future depends on the Board's continued ability to conduct the oversight necessary to ensure the proper allocation of taxpayer money. Public financing of elections is a luxury good. The benefits the Program provides are important, but not essential to daily life.

If the public discovers misuse of funds allocated for sanitation, or fire and police, taxpayers will demand those vital programs perform better. But if the public believes there is waste or abuse in the Campaign Finance Program, it may decide it is no longer needed.

That is why we ask campaigns to show that every taxpayer dollar they receive through the Program is spent for qualified purposes. New York City taxpayers deserve—and receive—rigorous and vigilant oversight of their investment in the political process. We will continue working to provide that oversight, and we look forward to answering your questions.