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NYC Campaign Finance Board
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Good morning. Thank you for inviting me to testify today about the New York City campaign finance system.

I'll cut right to the chase – the campaign finance system we have had for twenty years, featuring matching funds as an incentive to limit fundraising and spending, has been a colossal failure. Like Humpty Dumpty, it is broken, and all the king's horses...

The system was implemented with one overarching goal and three main purposes under that goal. The goal is to reduce, as far as possible, the influence of big-money donors, fundraisers and special interest groups on our city's government. To that end, the system was created, and is continually being tweaked, for the following three purposes: 1) limit the growth in campaign fundraising and spending; 2) level the playing field between candidates who can raise large sums and candidates who can't; and 3) keep special interests away from the election.

In meeting this goal and these purposes, we are necessarily bound by the 1976 U.S. Supreme Court decision *Buckley v. Valeo*. Because of that decision, we cannot merely limit campaign spending, nor can we limit, beyond a reasonable point, campaign donations. As a result, the matching funds system was instituted, where public money is offered as an inducement to limit spending voluntarily. In theory, people who eschew the system will be pilloried as a product of wealthy special interests, while those who do not have access to large donors and/or fundraisers will be able to get the money they need to run and win.

Unfortunately, the system has failed in all aspects. I will be putting a full analysis online on my website soon (at <http://www.danjacobyc.com/campaignfinance>). Meanwhile...

Campaign fundraising and spending has ballooned under this system, more than doubling in twelve years. In your report on the 2005 election you state that, "In constant 2005 dollars, the average spending on a Council campaign in 1993 was \$55,000; in 2005, the average spending was \$117,000."¹

I don't know if you have finished compiling numbers for this election cycle, but one interesting fact is clear: the fundraising season has gotten longer. For the 2001 election cycle, as of the January 11, 2001 filing, only one candidate for office, Alan Hevesi, had raised over one million dollars, and only two others, Mark Green and Fernando Ferrer, had raised over half a million. During the 2009 cycle the numbers were vastly different. By the middle of 2007, six different candidates had raised over one million dollars, three more would join by mid-January of 2008.

Clearly, this campaign finance system does not stop fundraising or spending from growing by leaps and bounds.

As for leveling the playing field, I have not finished my analysis, but it is clear that almost all of the 59 people who will be taking an oath of office one month from today won for reasons having nothing to do with matching funds. So far as I can tell, only one of the 59 can even make a case that matching funds made the difference – and that is not certain. Let me make this clear: matching funds make no difference in getting someone elected. Direct fundraising and outside money combine to overwhelm any benefit derived from matching funds.

¹ "Public Dollars for the Public Good, a Report on the 2005 Elections," available online at http://www.nycclfb.info/PDF/per/2005_PER/2005_Post_Election_Report.pdf, second footnote on page 134.

I mentioned outside money; this is where special interests take advantage of loopholes in the current system to influence elections. These special interests take several forms, such as party machines (both major- and third-parties), unions, PACs, and others. Money can be spent directly by these outside groups without anyone knowing just how much is spent on any particular campaign; so long as the veneer of a firewall is maintained between the outside group and the campaign it supports, it is perfectly legal. Meanwhile, getting major party support means getting special deals on a campaign headquarters, petitioning costs, legal services, access to valuable databases, and more.

Until these loopholes are closed, they will be widened until they completely overwhelm the official campaigns. And they cannot be closed with the current system.

In short, the current campaign finance system fails to achieve its goals, and fails to make a difference. The same people get elected, and they get elected by the same methods – raise more money, either directly or through third parties. Since the same people get elected, and get elected by the same means, it stands to reason that they govern the same way, to the benefit of their special interest sponsors ahead of the public interest. Elected officials will tell you that they govern in the public interest, because they have convinced themselves that the special interests they are helping really are the public interest.

We need something else.

There is a bill sitting in committee right now that would make a real difference. It is Intro 803, the “Clean Elections Act.” A revised version of this bill will be introduced early next year; I urge the CFB to support it.

Under the provisions of the Clean Elections Act, the matching funds system is replaced by a nearly full public funding system. In order to qualify for public funding, a participating candidate must get donations of as little as \$5 from a sufficient number of constituents, participating candidates may not do any other fundraising, and anyone who qualifies also gains automatic ballot status (note: this provision will require a “home rule” bill from the state).

Clean Elections works! It is working in Maine and Arizona, as well as several cities and parts of other states, and has just begun in Connecticut. It has proven to have a negative net cost, as excessive spending is cut or extra revenues realized because special interest groups lose the power that campaign donations have gotten them in the past.

I could talk at length about Clean Elections here, but I will save it for another time. I would be happy to answer any questions you have, either about my analysis of the current system, or about Clean Elections.

Thank you.