

**TESTIMONY OF JOHN SIEGAL  
COUNSEL TO WEINER '09  
DECEMBER 1, 2009**

**On behalf of Weiner '09, Congressman Anthony Weiner's principal committee for the 2009 municipal election cycle, I submit this testimony in response to the CFB's request for post-election suggestions regarding "the effect of the Program's administrative procedures on campaigns."**

**Congressman Weiner is a strong supporter of campaign finance reform. Indeed, in many respects, he owes his career to New York City's best practices campaign finance system that enabled him to run and win a City Council seat at a young age as a middle-class, neighborhood-based candidate without the support of powerful political organizations. As a sixth-term member of Congress and a participant-observer in the politics and government of New York, Mr. Weiner remains committed to reforms that will make our campaign finance systems transparent, fair and equitable, and that will encourage a government that is accountable to citizens and voters and not simply to those with economic and political power.**

**While this year's third-in-a-row record-level of candidate spending presented numerous policy issues, because Mr. Weiner elected not to participate in this year's municipal elections, Weiner '09 is not commenting on many of the post-election issues that are the subject of these hearings. Nevertheless, based on Weiner '09's limited involvement in the system this year, we urge the CFB to undertake the following three initiatives to improve the system.**

**First, the spending cap should be administered in a manner consistent with the City's broader social policy goals. In a year when Congress is struggling to find ways to cover all Americans with health care, the rules of City**

**campaigning should encourage, not discourage, more New Yorkers to have health insurance. While this would require a legislative change, Weiner '09 urges that campaign spending on health insurance benefits for campaign workers be exempted from the spending cap. Given the crisis in this city and country caused by the absence of health insurance for all, campaign committees should not be disincentivized from offering health insurance by counting health insurance spending against the spending cap. The Campaign Finance Act ought not encourage the practice of pushing staffers into uninsured consulting roles because the provision of employment benefits would reduce the amount available under the spending cap for voter contact and communications. Exempting payroll health insurance spending from the spending cap would accordingly be wise social policy that would not be inconsistent with the fundamental purposes and intent of the Campaign Finance Act. Accordingly, Weiner '09 urges the CFB to include such a health insurance exemption in its legislative proposal.**

**Second, while the amendments passed after the 2005 election substantially clarified the permitted exemptions from the spending cap, further legislation is required in this regard to make sure that the spending cap is administered in a fair and equitable manner consistent with the purpose and intent of the Campaign Finance Act. In this regard, taxes paid by campaigns on interest income earned in campaign accounts should be exempt from the spending cap. There is no valid public policy reason for the spending cap to be administered in a manner that effectively treats campaigns that raise their money relatively earlier in an election cycle at a disadvantage as compared to campaigns that raise more of their funds on the eve of an election. While the CFB has previously ruled in Advisory Opinion 2001-5 (May 17, 2001) that the exemption of taxes paid from the spending cap requires legislation and the CFB has also**

previously recognized that there are public policy reasons to enact such an exemption, *id.*, n.3, the need for such legislation is compounded now by Advisory Opinion 2008-7 (November 3, 2008) promulgated to deal with the impact of the term limits extension. Weiner '09 therefore urges the CFB to seek legislation that includes an exemption for all federal, state and local taxes paid by campaign committees from the spending cap. Paying taxes on income earned is simply a legal requirement and does not constitute campaign spending that impacts an election. For these reasons, taxes paid should not be included in calculating the election spending cap.

Third, for those campaigns that elect to participate in the matching funds system, streamlining the review and approval of matching funds claims remains an important objective. The CFB's procedures are understandably and appropriately designed to protect the public fisc, but they need not impose unnecessary burdens and bureaucratic steps between a campaign's reporting of matchable contributions and its receipt of public matching funds.

Unfortunately, it was Weiner '09's experience this year that the CFB's method of communicating about, reviewing and resolving invalid matching funds claims is often inconsistent, confusing, and can be counterproductive. The audit staff provides printouts of invalid matching funds claims with codes that are very hard to understand and, because the individual auditors change from review-to-review, they are often inconsistent. This makes it difficult for campaigns to clear up the problems because campaign staff often do not know what the identified problems really are, nor do they always receive clear instructions on how to fix an invalid claim. As time passes, it becomes harder to get contributors to sign the letters that the audit staff requires and the staff sometimes provides inconsistent advice on what is required. Thus, resolving this process often

**required intensive and repeat personal contact between harried campaign staff and overburdened CFB staff.**

**Therefore, Weiner '09 suggests that the CFB staff develop and publish specific codes and sample language that campaigns can use to clear up each type of coded invalid matching fund claim. In this manner, there will be no uncertainty or confusion, and the result will not change from auditor-to-auditor; a signed contributor letter using the CFB's suggested language for a particular type of coded invalid matching funds claim will presumptively resolve that invalid claim and move it into the valid category. Developing a clear set of codes and CFB-mandated correcting language during the off-years will greatly reduce the burdens on CFB and campaign staffs during election years.**

**Thank you, as always, for the important service that the CFB and its staff plays in New York City's democracy.**