



TESTIMONY OF BARBARA T. ROCHMAN

WOMEN'S CITY CLUB OF NEW YORK

before the

NEW YORK CITY CAMPAIGN FINANCE BOARD

hearing on

DISCLOSURE OF INDEPENDENT EXPENDITURES

March 10, 2011

We thank you for holding these hearings today and for this opportunity to appear before you. The Women's City Club of New York believes that the importance to our democracy of transparency in political campaigns cannot be overstated. The WCC is a nonprofit, nonpartisan, multi-issue activist organization founded in 1915. Our mission is to improve the lives of New Yorkers by helping to shape public policy and promoting responsible government. WCC has supported the work of the New York City Campaign Finance Board in its efforts, not only to make the New York City Campaign Finance Law an effective vehicle for partial public funding of political campaigns, but also as a way for the public to learn about how, and by whom, individual campaigns are being financed.

When Amy Loprest, Executive Director of the CFB, spoke to WCC last year, we were gratified to learn that the proportion of small donations contributed by individuals to New York City campaigns had risen substantially during the period that public financing has been in place. But now, the ability of corporations and unions to spend unlimited amounts on political campaigns makes it essential that when the rules are issued for disclosure of independent expenditures, those rules be crafted as broadly as possible. Rules that enable the CFB to capture the greatest amount of information about contributions to independent entities, and expenditures made by those by those entities, are necessary to fully inform New York City voters before they make their own election choices and are necessary to assure that the mandate of the November 2010 resolution, approved overwhelmingly by those voters, will be fulfilled.

Below are our comments on the questions raised by you in your “white paper”:

I. *Scope of regulated activity.* The requirements for disclosure of independent expenditures should not be limited to express communications asking voters to support or oppose named candidates or specific ballot propositions. Disclosure should be required for communications that are the functional equivalent of an appeal to vote for or against a specific candidate or ballot measure, i.e., they are susceptible of no other reasonable interpretation. We would not want to see disclosure requirements limited only to electioneering communications made shortly before an election as in the Federal law cited. Section 1052 15(b) of the City Charter specifically requires reporting of independent expenditures aggregating \$1,000 or more for candidates or for ballot proposals, without any reference to the

time the expenditures are made, and requires disclosure of expenditures aggregating \$5,000 or more within the twelve months preceding a covered election.

Expenditures for mailings, phone banks and/or robo-calls and online communications should be evaluated based on actual cost or fair market value of the goods or services.

Expenditures related to volunteer canvassers or phone bankers, such as headquarters, phone bank costs, staff supervision, other support services and materials provided to canvassers, should be reported.

II. *Required information.* We urge the Board to demand detailed information as recommended by the National Institute on Money in State Politics., which you have referenced. [This information includes: name address of the entity and of individuals making expenditures; names and address of entities and individuals contributing funds; name, address and type of business of entity or individual receiving payments, as well as the detailed purpose of the expenditure or of an individual; identification of the target of each expenditure, and whether supported or opposed. In all cases involving individuals they must provide their occupation and employer.]

As to the timing of reporting the required information, the CFB focuses strongly on campaign expenditures to ensure that public money is being used properly. In the case of independent expenditures, however, it seems to us that the expedited reporting of contributions would be most important, so that voters could learn about the sources of funding as soon as possible, while they are still making up their minds on the candidate or issue. With constantly expanding electronic means of recording, tallying and sending data, it does not seem unreasonable to require disclosure of contribution within 24 hours of receipt, certainly for contributions meeting a certain dollar threshold.

III. *Exemptions.* The press and media should be excluded from these reporting requirements, since their news reporting and editorials are part of their essential First Amendment functions. Moreover, people generally know the kinds of positions taken by various news outlets, and may select particular outlets exactly for that reason.

Most unions and other membership organizations usually make their contributions and perform other campaign activities through their political action committees. Organizations making independent expenditures without using PACS and whose activities are not primarily political should probably not have to report all their members. However, if new organizations spring up specifically to use contributions to make independent expenditures in support of or opposition to specific candidates or ballot initiatives, or their functional equivalent, it would be very important to know about their members.

We do not think it necessary for the CFB to set up a whole system of rules to deal with real or perceived harassment, reprisals, or threats thereof.

IV. *Enforcement.* The CFB has developed effective ways to enforce current law, and we would rely on your experience to determine how best to enforce the law and rules.

V. *Disclaimer Requirements.* The disclaimer/identifier on the face of the communication should contain as much information and be as informative as is feasible. The Federal Communications Commission Rules currently in place for disclosure and identification on political advertising materials could serve as a substantial reference for developing the Board's own rules. For example, the FCC Special Notice on Political Ads and Solicitations published in October 2006, states:

“On a public communication that is not authorized by a candidate or his/her campaign committee, the disclaimer notice must identify who paid for the message, state that it was not authorized by any candidate or candidate's committee and list the permanent street address, telephone number or World Wide Web address of the person who paid for the communication.” [11 CFR 110.11\(b\)\(3\)](#).

Example: "Paid for by the QRS Committee (www.QRScommittee.org) and not authorized by any candidate or candidate's committee."

The FCC requires that the identification must be “clear conspicuous” and also designates that on written materials the disclaimer must appear within a printed box set apart from the other content. It does not require a certain type size or degree of color contrast, but establishes a “safe harbor” of 12 point type size, as sufficient to meet the “clear and conspicuous” standard.

For radio and television messages not authorized by a candidate, the FCC rules state:

Radio “The disclaimer notice must include the name of the political committee or person responsible for the communication and any connected organization.” [11 CFR 110.11\(c\)\(4\)](#). Example, “ABC is responsible for the content of this advertising.”

Television “The disclaimer described above must be conveyed by a “full-screen view of a representative of the political committee or other person making the statement,” or a “voice-over” by the representative.” [11 CFR 110.11\(c\)\(4\)\(ii\)](#) and [2 U.S.C. §441d\(d\)\(2\)](#).

“The disclaimer statement must also appear in writing at the end of the communication in a “clearly readable manner” with a “reasonable degree of color” contrast between the background and the printed statement “for a period of at least four seconds.” [11 CFR 110.11\(c\)\(4\)](#).

VI. *Outreach.* The CFB has had substantial contacts over many years with various participants and actors in the campaign finance program, which should serve as a basic resource for outreach. Because the *Citizens’ United* case has caused significant controversy and been covered substantially in the press, one would hope that press coverage of new rules covering independent expenditures would be widespread.