

New York City Campaign Finance Board
40 Rector St.
NY, NY 10006

NYC CFB RECEIVED

2005 SEP 6 A 10: 26
RE: Exempt Petition Expenditures

Dear Chairman Schwartz and fellow Board members:

Thank you for the opportunity to present testimony to the NYC Campaign Finance Board.

In reading the local newspapers this weekend, I learned of the “controversy” surrounding a mayoral candidate’s request for an opinion on the amount of petitioning expenses that the CFB considers exempt from the spending cap. There were also references to a CFB opinion on Friday about a similar issue involving Council candidate Stephen Kaufman in the Bronx.

I am flummoxed as to how this could suddenly become a major headline issue so late in the game given that it’s potential impact on the outcome of a political contest as important as the mayoralty of the City of New York—and given, at least as reported, that there is absolutely NOTHING NEW to suggest the need for an immediate rules change. Your public website clearly states that expenditures related to accounting, legal records maintenance and petitioning and filing costs, etc. are exempt. Similarly, the advisory opinions and final determinations appear to be SILENT on the question of literature distribution at the time of petitioning. Thus, it seems to me a travesty for the CFB to thrust itself in the middle of a mayoral campaign with only a week to go before the September 13th Primary by abruptly considering the possibly punishment of a candidate who appears to have followed the exempt expenditure rules as you have stated them. As I read them, the rules do NOT state: “Only a fraction of petitioning costs are exempt if a petitioner also hands out a piece of literature when collecting signatures.”

As a lowly county committee person, I have petitioned in every NYC election since the creation of the Board. I certainly have nothing against any of the four major Democratic contestants in this year’s race—having petitioned for and contributed to the campaigns of C. Virginia Fields’ (she was my City Council representative), as well as to those of Gifford Miller and Freddy Ferrer. However, to me, a last-minute, out of the blue ruling that may undermine the campaign of ANY of the candidates--would make a mockery of the process. It would certainly seem to undercut your stated goals of leveling the playing field and strengthening the democratic process.

The omnibus Democratic nominating petition I carried this year included well over 30 candidates, including one for Mayor, Comptroller, Public Advocate, District Attorney, Borough President, Surrogate Court Judge, Civil Court judge, two for Supreme Court judge, one for a local City Council vacant seat, two for county committee members, 11 for judicial delegates and 11 alternates to the judicial convention—not to mention the names of dozens of Committee on Vacancy members. In 35 years of such efforts, I do not believe that I have ever petitioned without having distributed some campaign literature—especially for the name at the top of the petition. It is virtually an essential part of the petitioning process—enabling one to respond to skeptical registered voters who not infrequently ask questions such as: “why should I sign” and/or “what does s/he stand for?” I believe that it is would be a slap in the face of the potential signatory if petitioners were not

able to respond (without a penalty to the candidate) to expressions of incredulity: “what, you have no literature to give me!” The voters’ attitude is “if you are asking me to sign for this individual—surely you have information in writing to leave with me so I’ll be better informed.” Literature distribution at this stage of the electoral process has been a consistent practice, i.e., and integral part of petitioning for decades. As a matter of fact it has been said on many occasions “Gee, that candidate doesn’t really have his/her act together yet because s/he doesn’t have literature ready for petitioners to carry.”

Since the creation of the CFB in 1989, not a single candidate nor a single counselor for literally scores of candidates potentially eligible for matching funds has EVER even suggested to me that “oh by the way—be sure to not give out any literature telling voters who s/he is or what the candidate stands for as that act in itself may potentially harm him/her with regard to exemptions and campaign spending limits.” Ironically, I recently observed that when petitioning at my subway exit near work, a very large number of paid young persons were all wearing red “EVA” tee shirts identifying their candidate for Manhattan borough president; they were also handing out literature as they begged for nominating signatures. Is the calculus of what is to be considered campaigning while petitioning now to include what the petitioner was wearing at the time? How often I too have worn a sticker or button identifying the mayoral candidate for whom I was collecting signatures. Does this then also arbitrarily change the amount or percentages of petitioning expenditures that are exempt from campaign spending limits?

By the way, I believe that it important to understand before ruling on the issue before you today that especially when petitioning door-to-door in buildings---the amount of time involved in handing the voter a piece of literature is de minimus compared to the time it takes to get into the building, find the correct apartment (using alphabetical BOE lists of registered voters enrolled in the Party in question), convince the resident to open the door, explain the petitioning process and that this is necessary to level the playing field (i.e., that everyone starts at the same point regardless of incumbency) and then MAYBE actually obtain a valid signature with the required date and address.

I simply cannot comprehend why the CFB would insert itself into a hotly contested mayoral campaign at the last minute by potentially changing the rules *ex post facto* given that you have apparently been silent on this issue since the Board’s inception. Should you in fact you deem that there needs to be a change in the rules, then surely your past demonstrated **sense of fairness will dictate that you only implement any potential changes prospectively.**

Thank you for your consideration re the above referenced matter.

Ralph Andrew

Ralph Andrew

310 E. 14th ST
 NY NY 10003

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