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Forum on Campaign Finance

New York State Commission on Government Integrity

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STATE OF NEW YORK
COMMISSION ON GOVERNMENT INTEGRITY

FORUM ON CAMPAIGN FINANCING

Association of the Bar of the City of New York
42 West 44th Street
New York, New York

Monday, June 20, 1988
9:00 o'clock a.m.

PRESENT:

JOHN D. FEERICK, Chairman
RICHARD D. EMERY,
PATRICIA M. HYNES,
JAMES L. MAGAVERN,
BERNARD S. MEYER,

Commissioners

PETER BIENSTOCK, Executive Director
KEVIN J. O'BRIEN, Chief Counsel
NICOLE A. GORDON, Counsel to the Chairman
CONSTANCE CUSHMAN, Deputy Counsel

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71 HUDSON STREET
NEW YORK, N.Y. 10013
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THE CHAIRMAN: This public hearing is now in session. Good morning.

This is the third public hearing in the Commission's examination of the role of big money politics in New York. Our hearings in March revealed the workings of the money-raising machines which have been the major source of funding for the astronomically expensive races for City-wide office.

The computerized campaign finance data released by the Commission two weeks ago added to the public's knowledge of where the money comes from for these races.

Today, our focus is on New York City, Mayor Koch, City Council President Stein, and Comptroller Goldin.

We will also hear testimony from one of the most influential private citizens in New York City, publicist and lobbyist Howard Rubenstein.

This hearing comes at a crucial time in the history of this City and this State. From every corner comes newspeople at all levels of government who have transgressed the law or fallen short of the ethical standards that we, as a people, desire, indeed require, if we are to have confidence in
Because of the attention to transgressions, cynicism grows, and people in all walks of life lose respect for government, even though the vast majority of government officials carry out their responsibilities honestly and fairly.

On the other hand, we now have an opportunity for reform, an opportunity to revitalize both the ideals and the practice of government.

The leaders of this City have already taken an important step that shows their willingness to seize this opportunity.

The City has enacted and begun to implement a new, historic public campaign finance law. This will, for the first time, reduce the dependence of City officeholders on a constant flow of funds from those who do business with the City and will impose limits on the amounts which can be spent by candidates who accept public funding. We applaud these efforts and the vision of our leaders in achieving this reform.

But the Public Funding Law has not eliminated the need for private funds. And, faced with election in 1989, the City-wide officeholders even
now must turn to questions of how to raise the funds they need, to pay outstanding debts and to secure their positions. As they do so, it is appropriate to examine how the new law will apply and whether it can achieve its laudable goals.

It is appropriate to look closely at fund-raising to see whether, even under the new law, certain practices will continue to create appearances of trading favors, access, or votes, for money.

For example, it is appropriate for us to continue in our examination of whether numerous corporations, all controlled by the same owner, should each be permitted to give contributions which then have a substantial cumulative impact; whether virtually unlimited contributions to wipe out a prior campaign debt should be allowed; whether money should be given, at all, by those who do business with the City; whether lobbyists should be permitted to solicit funds on behalf of the same individuals before whom they lobby.

Let me be clear about one thing. We are not talking about illegal acts. That should be emphasized. We are talking about conduct which does not necessarily violate the letter of the
laws, but which, because it may not be consistent
with the purposes of those laws, can take the
fundraising processing with appearances of impro-
priety. These appearances erode the confidence of
the people in the integrity of their government.

Today we will explore whether there is still
legal conduct which creates the appearance that
favors are given to campaign contributors who do
business with government.

It is important to examine how the systems
of government are working, to explore just how the
Board of Estimate, the most important administra-
tive body in the City, over which our witnesses
today have voting control, keeps track of its
decisions.

Our staff has been examining the relationship,
if any, between campaign contributions and the
decisions of the Board of Estimate. What they have
found is that appallingly antiquated record keeping
makes any such examination all but impossible.

They have found that it is virtually impossible
for the uninitiated to know what goes on at the
Board of Estimate. They have found that there is
no coherent, accessible system of records to show
the progress of the matters through the Board's decision-making process. They have found that the most recent Journal of Proceedings is for the year 1981, and the most recent index to that Journal is for the year 1976.

The situation at the Board of Estimate has made it impossible for members of the public to monitor compliance with the Goodman Amendment. This 1986 law seeks to prohibit campaign contributions in excess of $3,000 from anyone with a matter considered by the Board, within six months before and twelve months after that event.

The City is now voting its new budget. The Commission has learned that, since our inquiries into the Goodman Amendment began, the Secretary of the Board of Estimate has made efforts, joined by some Board members, to improve and update the record-keeping systems. We applaud those efforts. We also urge the Board to consider adequate funding for this project as a matter of the highest priority. This funding is the insurance policy that citizens must have to secure their faith in the services of their elected officials into the future.

We ask a great deal of our elected leaders.
It is with the greatest respect for the difficulties of their offices that we embark on our hearing today. We do not minimize what they have already accomplished. But we strongly believe that the citizens of this City are entitled either to assurances that the measures already taken are sufficient or that additional necessary reforms will be pursued so that big money does not continue to dominate the elective process.

We call upon our elected leaders to make this their first priority. We will try in every way to support them in their efforts.

A brief word about the format of our hearings. Witnesses who testify have a right to file a written statement either before or after the hearings and to be accompanied by counsel. Any person whose name is mentioned during the hearings also has a right to submit a statement to the Commission.

The witnesses who testify today will be first asked questions by Peter Bienstock, the Commission's Executive Director, or by Connie Cushman, Deputy Counsel to the Commission.

Members of the Commission will then have an opportunity to inquire of the witnesses.
Mayor Koch

We appreciate the assistance in our work by the three New York City-wide officeholders who will testify today.

I'd like to call as the first witness, Mayor Koch.

HONORABLE EDWARD I. KOCH, called as a witness, having been first duly sworn by the Chairman, was examined and testified as follows:

THE CHAIRMAN: Please be seated.

THE WITNESS: Thank you.

Mr. Chairman and members of the Committee, first I want to thank you for arranging your schedule a little bit earlier so that I can leave at 10:45 to attend the funeral of a police officer who was killed in the line of duty, and, secondly, to tell you that in pursuance of the questions that you posed in your letter of invitation, I have brought with me -- and they're sitting in the rear here -- people who might have more detailed information on specific subjects, and you might either want to swear them in now or later. It's your decision, obviously.

Peter Zimroth, who is the Corporation Counsel,
Mayor Koch

who can talk in greater detail about the legislation which we enacted on campaign financing.

Pat Mulhearn, who is counsel to the Mayor at City Hall, and who issues the directives that I issued over the past on matters that you'd be interested in.

And Larry Mandelker, who has been a witness before you, and who is my Campaign Treasurer.

THE CHAIRMAN: My preference would be to have them sworn in at this time, Mayor.

(Whereupon, Patrick Mulhearn, Peter Zimroth, and Lawrence Mandelker, were duly sworn by the Chairman.

THE CHAIRMAN: I would like to enter in the record of these proceedings at this point the written statement filed by Mayor Koch, and provide you with an opportunity, Mayor, to summarize that statement, if you wish.

MAYOR KOCH: I am not going to read it, because I do appreciate your taking it. I would like to, instead of simply confining myself to that, make these modest points brief.

I believe that the most important part of your work is the address the following issues:
Campaign filings that have to be sufficiently detailed and done in a timely way, so that everything that a person is running for office is doing in pursuit of that campaign is available to the public and for criticism by his or her opponent.

I believe that there have to be limitations on financing, so as to reduce the cost of campaigns and limit the impact of large contributions.

I believe there has to be public financing, not only City-wide, but State-wide.

I believe there has to be ballot access so as to remove the procedural attacks made upon candidates which have in the past eliminated bona fide candidacy, not leave it to courts, because the courts have put the Legislature on notice that they're going to address the law in a very strict way, and they have, in fact, thrown candidates off the ballot for reasons that would defy rationality, because they were technical violations of the law.

You can't blame the courts. They have the Legislature on notice, and the Legislature has done nothing to deal with that.

Then, finally, that there be adequate information be made available to the public as it relates
to the position of the candidates through debates that are free. We are doing that through N.Y.C. through brochures that are made available through the Board of Elections, which, I believe, they just decline to do.

I believe that if those five issues, as I see them, were to be addressed by your Committee, with recommendations, that would have great impact upon those who can change the law, the State Legislature, and you would have carried out your mission in such an exemplary way, we wouldn't need another Commission for another 20 years.

THE CHAIRMAN: Thank you, Mayor.

I'd like to turn the questions over to Peter Bienstock.

MR. BIENSTOCK: Thank you, Mr. Chairman, and thank you Mr. Mayor for joining us this morning.

If at any time during my questioning you feel it would be appropriate for Mr. Mandelker or Mr. Zimroth or Mr. Mulhearn, please just indicate that. We can accommodate it.

I take it from what we've just said and from the opening statement that's on the record, that you would agree that wealthy individuals and
businesses should be limited in the amounts that they can give campaigns?

MAYOR KOCH: I not only agree, I initiated the legislation which was formulated by Peter Zimroth which does, in fact, exactly that, putting caps of $3,000, and I want to give Peter Vallone, who is the Majority Leader, and without whom this law could not have passed through the City Council, because it was not exactly favorably received by everybody, great credit for assembling the coalition and majority that did it.

MR. BIENSTOCK: Can you tell us why it is that you believe that the wealthy individuals and businesses should be limited in contributions?

MAYOR KOCH: Yes. Primarily, perception, I believe, and I think the Chairman stated it, that most people are honest. I believe that -- I'm sure that some, and we know from convictions that have taken place, that some are not. But the vast majority of people in public elected office are honest, and I do not believe that many, if any, have sold their votes as it relates to the people now in government.

I don't know of anyone in the government today
who has sold their votes, and I don't believe they have.

But, nevertheless, there is a perception. There is a perception that if you give the maxium, which is $50,000, that somehow or other you're buying something with that $50,000, and you say to people, (a) they have not, and (b) the $50,000, to someone who has given that $50,000, in terms of ability to give, is probably less than they might have given if you compared someone of moderate means who gave a thousand dollars -- proportionately, the person who gave a thousand, gave more.

MR. BIENSTOCK: Well, can you tell us what your sense is of how the limitation is set? $3,000 seems to be a magical number. It's a limit of the Public Funding Law, the Goodman amendment.

MAYOR KOCH: Well, I'll comment on that.

I was in the Congress when we adopted public financing, and I and John Bradimus were the two members of the then House Administration Committee who advocated public financing for members of Congress and not just limited to the President and Vice President.

We lost in the Committee because there was
Mayor Koch

no support for it then, and I don't think there is support for it now, either in the Congress or even with the public, although I haven't seen any polls on the subject recently.

At that time, they took a thousand dollars, which I thought was foolish, unless it had an escalator in it, because a thousand dollars today, compared to a thousand dollars then, it's at least $2,000, probably more today, and their stuck with that figure, because it had no CPI escalator.

With respect to the way the $3,000 was arrived at here was actually more -- it was reduced to $3,000. My recollection is that it was originally $3,700, something like that, in the City-wide races. And then I believe we, for uniformity sake, had it correspond with the Goodman Law limitation, which was the $3,000. I don't think there was any special rationale other than that.

MR. BIENSTOCK: Is it fair to say that is a limit, whatever the number may be -- it has to be an arbitrary number -- that that is a limit above which the people could not reasonably perceive or suspect that a --

MAYOR KOCH: No, no. I mean, there are people
who believe the limit was set too low. That, in fact, that limit adversely impacts upon insurgents who need a larger sum of money in order to get their case across.

But it's an arbitrary figure, and I believe it was set simply to -- you didn't want to have two figures. You didn't want to have the Goodman Law, which was $3,000, and then have to worry about that, and another law said that you could give more than $3,000.

MR. BIENSTOCK: What I'm getting at is the principle of how one sets a limit.

My question is: It seems to us it may be a limit, a number above which people, or substantially above which people could reasonably suspect or perceive a vote was being bought.

Is that fair?

MAYOR KOCH: Well, I don't think that that really encompasses it. If you said it was $5,000, you would have, I think, the same response, that that is not an unreasonable figure.

When you have $50,000, which is what the State law allows, then perception is that that $50,000 buys more than simply an acknowledgment
of thank you.

So, I have no way of knowing where the public moves in and says, from a perception point of view, $10,000 is too much, but $3,000 is not a magic number.

MR. BIENSTOCK: In your statement, you indicated that there came a time when you set voluntary limits on your campaign.

MAYOR KOCH: I did.

MR. BIENSTOCK: Can you tell us when that was, and what the particular circumstances were?

MAYOR KOCH: Sure. My recollection is that it followed the scandals that became the subject of great public discussion with Donald Manes and so forth. And we had to pay off a deficit, it's my recollection, that we had from the last campaign, and I -- it was my decision, nobody else's -- said, because the Goodman Law didn't exist at that time, it's my recollection -- I said, let's take the limitation that's imposed on Congress and CPI it, and if that's the limitation that we will impose upon contributors, and it was $2,000, I believe.

MR. BIENSTOCK: $2,000 on an individual?

MAYOR KOCH: Yes.
MR. BIENSTOCK: And that was $2,000 for the primary, $2,000 for the general election?

MAYOR KOCH: It wasn't done that way, because it was to pay off a deficit.

MR. BIENSTOCK: It was $2,000 for --

MAYOR KOCH: For that particular dinner, to pay off the deficit.

MR. BIENSTOCK: And I take it that those voluntary limits stayed in effect up until the end, at least until the end of 1987?

MAYOR KOCH: Yes. I had a second dinner, which is for the '89 -- the Mayoralty race, and I kept the same limitation.

MR. BIENSTOCK: And it was at that point that it was, I believe -- and correct me if I am wrong, I don't mean to put words in your mouth, of course -- that it was $2,000 for the primary and $2,000 for the general election?

MAYOR KOCH: Yes, that is correct, because it was directed -- said specifically the '89 race, whereas the earlier one was to pay off the deficit from the '85 race.

MR. BIENSTOCK: At that point, the corporate limit was $3,000 for one corporation for a year;
is that correct?

MAYOR KOCH: What was the last part of your sentence?

MR. BIENSTOCK: For the year, an annual limit of $3,000 for any --

MAYOR KOCH: We haven't gone back to anybody, I believe. We set the limitation at $3,000.

MR. BIENSTOCK: Do you know what your policy was with respect to affiliated corporations?

MAYOR KOCH: I don't know whether we took money from -- by "affiliated," you mean a common stock ownership?

I'd have to turn to our Campaign Treasurer.

MR. MANDELKER: We did not have a policy concerning affiliated corporations. If a corporation would give under the Election Law, that's separate corporations, separate treasurer, separate books, and it could give under our voluntary limits.

MR. BIENSTOCK: And the same is true under the new City Public Funding Law?

MAYOR KOCH: I don't think that's so. There's great debate as to whether or not the existing language of the law would preclude subsidiaries or affiliates, and some of it, by the way, is
covered by the Goodman Law, as to what can be done.

But, restricting my answer only to the legislation, it's the belief of some of us that the law does not preclude the subsidiaries, but if it does not directly, then we believe that this Commission, which has been created under the law, would have the right to define the subsidiaries as one person, and, therefore, subject to the limitation.

And if they don't have that legal right, if it were to be challenged, we would hope they make that recommendation, and then the Council would abide by it.

MR. BIENSTOCK: So that, if I am correct, in the drafting of the law, it was your intent to prevent aggregate corporate contributions?

MAYOR KOCH: I did not draft the law, the Corporation Counsel did.

But, I want to tell you what I believe should be the law, and whether it was his intent at the time he drafted it, you will have to ask him.

MR. ZIMROTH: I honestly don't remember what the intent was at the time. It's clear to me, in any event, if you have a situation in which you're
talking about subsidiary corporations, it seems to me that that should be covered under the law as one person.

MR. BIENSTOCK: You believe the present language does that?

MR. ZIMROTH: I am not sure the present language does that. I think the present language is sufficient for the Campaign Finance Board to adopt that by resolution, and, as the Mayor said, if they believe otherwise, we would seek an amendment to the law.

MR. BIENSTOCK: Let me ask you this question: Do you view your voluntary limit as superseded by the new law?

MAYOR KOCH: I do. The law now allows $3,000. I don't intend to impose on myself a $2,000 limitation and have my adversaries use the existing law.

MR. BIENSTOCK: Do you intend to now impose on yourself the limit that Mr. Zimroth just referred to concerning affiliated corporations?

MAYOR KOCH: Yes, that we would do, because I believe that's in the law, and I am not going to wait for it to be tested.

MR. BIENSTOCK: Let me ask you -- I want to
go through several examples of contributions made
to your campaign both before and after the voluntary
limits were instituted, and when I get through those
examples -- there are three of them -- I'd like
to ask you some questions which are along the lines
that we've been discussing.

If I can have Exhibit 27, 25 and 29 shown?

The first example is Exhibit 27, which is in
the book in front of you, Mr. Mayor, and also blown
up in front.

MAYOR KOCH: I've now looked at Exhibit 27.

MR. BIENSTOCK: For the record, that's a
January 13, 1988 letter from a person with the
Government and Industry Affairs person at Shearson
Lehman Brothers to Debbie Pfeiffer of Event
Associates, and I believe we will agree that Event
Associates is a company that you use?

MAYOR KOCH: The company we pay to do the
finance arrangements.

MR. BIENSTOCK: That letter, I just want to
make one point about it. It shows that Shearson
Lehman gave $10,000 at one time through four
affiliated separate corporations, even to the point
of using the same bank account with respect to two
of those corporations.

Now, the next exhibit I am going to refer to is 25.

MAYOR KOCH: Yes.

MR. BIENSTOCK: For the record, and while you're looking that over, Mr. Mayor, Exhibit 25 is a listing prepared by Commission staff from the Mayor's file, which indicates corporate affiliates of Merrill Lynch and, among other things, I want to make one point about the chart. There are many points that can be made and we can discuss them.

November and December of 1987, under the voluntary limits, Merrill Lynch gave $20,000 through seven subsidiaries, and back in the 1985 campaign, Merrill Lynch gave $20,000 on one day, when the legal corporate limit was $5,000, through four subsidiaries. But, in any event, Merrill Lynch, if you will, found a way to give the same amount, just increasing the number of corporate subsidiaries.

The third exhibit I want to refer to is Exhibit 29, which is also a Commission chart listing the contributions as reported in the files of your Campaign Committee, concerning Bernard Mendick, who, I believe, we can all agree to characterize
as a New York City real estate developer.

In 1985, Mr. Mendick, through personal contributions of he and his wife, gave $15,000 and in 1987, under the voluntary limits imposes by yourself on your own campaign, Mr. Mendick added four of his corporations, giving $3,000 each, and he and his wife each chose to give the maximum they were allowed to, for a total of $16,000.

So that there, too, he found a way to get the same amount of money to the campaign through the use of corporate affiliates.

My question is -- and it was, in part, answered by what you said about your interpretation of the law in the future -- if it's not the case that the limit, $3,000, applies to corporate affiliates, isn't it just a matter of how many corporations one has access to as to whether or not they can be limited or unlimited contributions?

MAYOR KOCH: My response is a simple one. When we limited our contributions, we did not impact on the subsidiaries. The new law, we believe, does, and we hope that that would be the outcome by any court challenge. If it's not, then the law should be amended as it relates to taking monies from
subsidiaries.

MR. BIENSTOCK: And with respect to any State law that the Commission would propose, I assume --

MAYOR KOCH: The same. Our problem -- we tried desperately to get the State of New York Legislature to deal with campaign financing, desperately, and at one point we were very close to it and it was the State Senate that turned it down, and they turned it down in a peculiar way. Warren Anderson -- and he said it to me directly -- that they were not for campaign financing for members of the City Council races. They had no objection to limitations for City-wide races, but because they were opposed to the precedent which might then impact on the City Legislature, they would not support the Assembly bill which gave campaign financing for local races, and we couldn't do anything with them.

The Assembly couldn't do anything, nor could the Governor.

The Governor and I were jointly involved in the matter, and then we turned to our Corporation Counsel, Fred Schwarz, and then ultimately, Peter...
Mayor Koch

Zimroth, who came up with what we think is constitutional and innovative, and accomplishes not in as fine a way as the State Legislature would if it enacted it, but because it doesn't impose -- it says you can't participate in the public financing unless you're involved, which is not as good as imposing.

MR. BIENSTOCK: But it's the only way you could do it?

MAYOR KOCH: The only way we could do it.

MR. BIENSTOCK: I was also going to ask you similar questions about the Goodman Amendment, which doesn't have a corporate aggregation limit, but your response really, I think, makes those questions academic, in that if you're right that the City law imposes that aggregation limit, then it becomes the lower limit.

MAYOR KOCH: Uh-huh.

MR. BIENSTOCK: Although there's a difference between the Goodman Amendment limit and your limit, with respect to --

MAYOR KOCH: There is. We hope our law will supersede that aspect.

MR. BIENSTOCK: Now, I would like to skip
over some of the questions I was going to ask and refer to Exhibit 48, which is blown up here.

MAYOR KOCH: Yes, sir.

MR. BIENSTOCK: My question is very simple: Is it fair to say that Exhibit 48 is a document which announces a decision which was jointly made by you and Comptroller Goldin?

MAYOR KOCH: I would assume so, sure.

MR. BIENSTOCK: And that's a decision which is not subject to review by the Board of Estimate?

MAYOR KOCH: That's correct.

MR. BIENSTOCK: Therefore, it's not subject to the limits of the Goodman Amendment?

MAYOR KOCH: Yes, you're correct.

MR. BIENSTOCK: So that --

MAYOR KOCH: It would be subject to the law--

MR. BIENSTOCK: I understand.

MAYOR KOCH: -- the new law.

MR. BIENSTOCK: And you have also cut through some of my questions in this area, but I just want to sum it up.

That is, that with respect to the Goodman Amendment, the beneficiaries of the decision announced on this exhibit, could still give money --
Mayor Koch

if only for the Goodman Amendment -- could still
give only $3,000?

MAYOR KOCH: But not under the new law.

Can I break in and give you some additional
information on that?

MR. BIENSTOCK: Sure.

MAYOR KOCH: This process of selecting new
underwriters is a very interesting process, and
I'll tell you what the problems were.

The Comptroller and I decided that we would
have an open process, and neither he nor I had
any decision making in the process. We delegated
that responsibility to others. In my case, it
would have been Paul Dickstein and someone from
the Corporation Counsel, Sandy Altman, I guess,
three or four people, and the Comptroller similarly,
and it had to be ultimately a unanimous deci-
sion, and they made it, and Jay and I just con-
formed it.

What they did was, they removed three major
banks who had been underwriting our bonds back in
the fiscal crisis, because the criteria used under
this RFP were such as to cause others to be pre-
ferred in what they referred to as a tombstone.
You can't imagine the outrage of those three banks. I will tell you, those banks were the biggest banks in town; Citibank, Chase Manhattan and Chemical. I got calls from all three Presidents and, you know, what they said to me, "This is a political process." We said,"Just the other way. Just the other way. I have nothing to do with it, neither does Jay. We turned this over to experts in financing, and whether they are right or wrong, I don't know, but they made a decision that the ones that they selected were the best under that process."

Then they said to me, "Well, it's not fair. We have X thousands of employees. We were with the City in 1975 when the City was at the edge of bankruptcy, and now that the City is doing okay, you're throwing us out."

I'd have to say, well, I've already had lunch with one of them, I am having lunch with the other two, but it won't help, because whatever you say to them, they say, it had to be political, and I'm telling you I'm glad we did it, not because we threw them out, but because I thought the process, as did Jay Goldin, should be on the basis of experts making the selection.
But then you have to take the attacks, understandable, from those who lose, because that's worth millions of dollars. Those people make millions of dollars. But, you have to have them in our system to sell your position.

MR. BIENSTOCK: Position as to whether you're higher up or lower down is also --

MAYOR KOCH: Higher up or lower down impacts upon two things: One, your involvement in the numbers of bonds to be sold, and, secondly, do you know what bothers them more than anything else? It wasn't the money. It was prestige. How do they explain it? I don't know how they explain it.

MR. BIENSTOCK: Mr. Mayor, I'd like to turn to another subject, and that's the subject of lobbyists.

There was a time, I take it, when you proposed a resolution or a City Ordinance, I believe it was, which would have treated lobbyists and other retained representatives of people doing business with the City, especially with respect to their campaign contributions; isn't that true?

MAYOR KOCH: I turn to Pat Mulhearn.

MR. BIENSTOCK: I am referring to 738, which
was a proposal drafted by your former Corporation Counsel.

MR. MULHEARN: I believe this was the proposal by Fred Schwarz that anyone who did business at the Board of Estimate or gave a campaign contribution would be barred from certain discretionary --

MR. BIENSTOCK: That's correct.

MAYOR KOCH: That was a variant on the Campaign financing Law that Peter Zimroth perfected. Fritz' was innovative and very important, but not as comprehensive as what Peter Zimroth came up with.

MR. BIENSTOCK: No doubt about it. We're not disputing that.

My question is: That proposal treated -- which was introduced in the City Council, treated lobbyists specially, in that it included that disqualification would be triggered if a contribution is given by the business doing business before the Board of Estimate, or if the contribution was given by the lobbyist --

MAYOR KOCH: With the lobbyist's own money, I guess. It had to be their own money.

MR. BIENSTOCK: That's right, or the public relations specialist.
MAYOR KOCH: You mean, it would be an extension of the corporation for these purposes?

MR. BIENSTOCK: That's right. Do you recall that?

MAYOR KOCH: No, I do not.

MR. BIENSTOCK: Do you believe that lobbyists -- that there should be a special prohibition on contributions by lobbyists?

MAYOR KOCH: I think they should be subject to the same personal limitation. That is to say, a lobbyist is a person. A person is defined as a corporation or a natural person, and the limitation is $3,000, and that's what a lobbyist should be allowed to make as his maximum or her maximum contribution.

MR. BIENSTOCK: Are you familiar with Mr. Rubenstein's view on this subject?

MAYOR KOCH: No. His view? No. I am familiar with him, but not his view.

MR. BIENSTOCK: Let me refer you to Exhibit 21, and ask you to look at that?

MAYOR KOCH: Yes, sir.

MR. BIENSTOCK: I take it you were not familiar with the thrust of the view?
MAYOR KOCH: No. I think I saw something like that in the press over the extended period of time, or heard that he was getting out of politics because, you know, you have to understand something. The question is why anyone would get into politics, not why they get out. The question is why anyone would support someone and then run the risk of being required to explain why they made a campaign contribution.

Now, you know, if people could get elected with the government paying everything, you wouldn't have to raise a nickel, but that's not real life. We're trying to reduce the impact of having to go out and raise money by public participation, as we have done it here, but in our society today -- and I'm not blaming anybody -- public officials and people who are involved in supporting public officials, run the risk of headlines that they've made a contribution, it must be nefarious.

May I degress for one minute?

MR. BIENSTOCK: Sure.

MAYOR KOCH: One of the large contributions made to me was by Milton Petrie. He's a millionaire --not a millionaire, a billionaire. He's a wonderful
man in his late eighties. He likes me. He gave me the maximum. The maximum is $50,000, and it may even be that his wife did this. I don't know. I know he gave, and it may be that his wife did, too. I don't know. The records would bear that out one way or the other.

He helped me when I was -- in 1977, when I ran the first time, and every election thereafter. He has never asked me for anything, with one exception: That I come to three dinners that were held in his honor; one by the Archdiocese, one by Beth Israel, and one by some third foundation, because he gives them millions of dollars when they have these dinners. That's the only time that he's made a request of me, that I come to those dinners.

And, by the way, I did. I went to his three dinners.

Now, why do I make this point? Well, if you didn't know that and you look at a chart, and he's given $50,000, you say, "Oh, my God, what did he get for it?" He got nothing for it. And, from his point of view, that $50,000 is less than a thousand dollar contribution made by someone who's making $50,000 annual income.
So, what I'm trying to convey is, that I have no objection to the scrutiny, none at all. I mean, if you -- you know, Harry Truman said, "If you can't take the heat, get out of the kitchen." I've been here eleven years. I've taken plenty of heat. That's part of life, that's part of public service. But the people who are not choosing to go into public office -- and there are less and less doing that, because of what I've just said to you -- those who do it vicariously, by making contributions, to be slammed about as they have been, unless you can show that they got something other than what I believe is reasonable, that they wanted to support people -- can I just take a brief additional moment on that?

You know, in 1977, when I ran the first time, I got 48 percent of the vote. In 1981, I got 75 percent of the vote. In 1985, I got 78 percent of the vote. Most of those people -- 78 percent is unheard of, the largest in the history of the City, as was 75 before it.

Most of those people didn't do anything other than vote for me. Some of them, 18,000 of them, sent in money.
I looked at your charts. I am rather pleased with the chart that you did on me as it relates to the number of people who gave less than $100, four percent. I think that's unheard of. I mean, that large a percentage of the total, certainly different than some of the other charts that you have. But, even those who gave more, I assume that they gave because they thought that I would be a good mayor.

The problem becomes this: You are perceived as pro-environment, and you give money because you are pro-environment, then you're against Westway. Everybody applauds, terrific.

You know, eleven years ago co-ops that are now selling for millions of dollars in the City of New York were selling for $100,000 or less on Central Park West. Supposing those people decided at that time that they liked the fact that I thought the City should grow and they wanted me to be Mayor. Should they be excoriated?

MR. BIENSTOCK: I think you and I would agree, Mr. Mayor, we're talking about perceptions?

MAYOR KOCH: I agree, perceptions.

MR. BIENSTOCK: And let me try to --

MAYOR KOCH: That's why I think Howard
Rubenstein is getting out -- if this letter truly reflects his view, he probably doesn't want the heat of having to explain why he supports candidates.

MR. BIENSTOCK: Let me refer to testimony that Mr. Mandelker gave to us in March concerning the importance of the Dinner Committee.

The Dinner Committee, as we understand it now, is a list, a group of, primarily, your fundraisers?

MAYOR KOCH: Uh-huh.

MR. BIENSTOCK: My question to you is: Do you think that it's a good thing, creates a good appearance, or the possibility of the appearance of impropriety if you have lobbyists, major lobbyists and major people, people who do a large amount of business with the City, on your Dinner Committee as your major fundraisers?

MAYOR KOCH: I don't think it has any impropriety attached to it at all. Let's go through it.

My last Dinner Committee was Jim Robinson and Evelyn Lawton. They're both very wealthy people and prestigious, and they do a lot of fundraising for charities.

The fact is, Evelyn Lawton said to me, "You've
got the wrong person, because I'm now raising money," and she gave me the charities she was raising the money for.

I said, "Evelyn, I want you." She said, "I think you're doing a good job and I will do it for you."

Why do you take people like that, or Phyllis Wagner, or Irving Schneider? It's because these are rich people and they know a lot of rich people. Rich people make contributions to charities and campaigns. And you know what they do? They make a contribution, they call somebody else up, and they say, won't you contribute to this fund, charity, or candidate, and then they expect to be called by the person who they solicited.

So, that's why you call these people, because there's no question but that they know other people who can make contributions of whatever, most of them, most of the time, and you have your charity. And I'm not going to, you know, try to break it down.

But, the contributions from rich people range from $1,000 to $5,000 to sometimes the maximum, but no longer the maximum, $50,000. It
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will be $3,000.

MR. BIENSTOCK: Let me refer you to Exhibit 24 in the book in front of you, which contains in it a list of your Dinner Meeting.

MAYOR KOCH: Yes.

MR. BIENSTOCK: I want to ask you --

MAYOR KOCH: Gee, I hope I can put that one together next year.

MR. BIENSTOCK: I want to ask you a question about people doing business with the City, large amounts of business with the City, who may or may not be rich people as major fundraisers.

MAYOR KOCH: Yes.

MR. BIENSTOCK: Particularly, there are a number of people who do business. Mr. Mendick is on that list, and we referred to him before.

I want to ask you if you know who Joseph Pinto is?

MAYOR KOCH: Joseph Pinto? Not offhand. Can you give me some --

MR. BIENSTOCK: He's a Vice President of Emanuel Elkin Company.

MAYOR KOCH: Emanuel Elkin Company? The name doesn't strike a bell to me.
MR. BIENSTOCK: Our records show, while Mr. Pinto did not contribute to that dinner, he successfully solicited the officers and consultants of Emanuel Elkin Company to the tune of $8,000.

MAYOR KOCH: What's wrong with that?

MR. BIENSTOCK: Well, I'm not suggesting there is. I'm seeking your view on this.

The Emanuel Elkin Company, over the last year, has been before the Board of Estimate for road repair contracts at least five times, and their contracts are on the order of a million dollars apiece.

MAYOR KOCH: Okay, my response.

I never heard of Emanuel Elkin Company, to the best of my knowledge, until you just mentioned it. I'd probably know Mr. Pinto if I saw him, but his name means nothing to me.

So, the real question, and it's a real problem, and I don't have the answer to it, and maybe you gentlemen and ladies do, as to whether or not you will exclude people who do business with government from being involved in the political system. Maybe they should be. I think it violates the First amendment, but maybe they should be.
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Maybe if you're doing business with government, you should be simply excluded from making any contributions. Maybe.

I want to tell you that on the Board of Estimate on some days there are hundreds of items, not just ten, twenty, but hundreds. Shall all of those people be excluded? I don't know. I am going to --

MR. BIENSTOCK: Mr. Mayor --

MAYOR KOCH: I'd like your advise on that.

MR. BIENSTOCK: -- our research indicates that several states and, indeed, the Federal Government itself, does have such a solution, and it's really a question of us soliciting your view as to whether or not it would be a good thing.

MAYOR KOCH: Well, my feeling is, being in government -- and I've just told you, I've never heard of this company, and you just told me that they appear before the Board of Estimate. Okay. There's no question in my mind that their appearing before the Board of Estimate didn't impact on my decision, and I doubt that it impacted on the decision of anyone who voted on whatever it is, you say, road repairs. I mean, I doubt that it had
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any impact.

Shall those people be excluded from the political process of trying to elect people who they think are good for the City? Ideologically, politically, whatever, I don't know. My own feeling is they should not be excluded, but I am willing to be convinced.

MR. BIENSTOCK: Mr. Mayor, I want to ask you some questions concerning the Board of Estimate, which you just alluded to.

MAYOR KOCH: Yes.

MR. BIENSTOCK: You mentioned in your written statement that the Board of Estimate has tried to improve the Goodman Amendment through Resolution 333.

Are you aware of the state of record keeping of the Board of Estimate?

MAYOR KOCH: It's probably lousy. I heard the Chairman say it was terrible, and I also heard him say that we're trying to upgrade it, and you can be sure if money is the issue, that whatever I can do as Mayor to provide that money, I will.

The original Goodman Law, I am told by the lawyers, was terribly written and had to be improved
upon by the City. First, that was under Fritz Schwarz, I believe, and then, now currently under Peter Zimroth. I believe that they have taken major measures, and maybe they can tell you what it is, to make it possible to do the monitoring we will want, and that the original Goodman Law was deficient on.

MR. BIENSTOCK: Well, I do want to ask Mr. Mulhearn, who I think is the appropriate person, a few questions about that, and that relates to computerization of the records at the Board of Estimate.

You're familiar, I understand, with that subject?

MR. MULHEARN: Yes.

MR. BIENSTOCK: And I take it you're also familiar with Mr. Meekins' budget request of the last few weeks which relate, originally, to $2 million for computerization of the calendar of the four 333 affidavits, which request, at least according to Mr. Meekins, has not been acted upon favorably and has caused him to reduce his request to $900,000?

Now, that may or may not be a fair
characterization of what has happened, and I'd be interested in your views on that, and I'd also be interested in knowing whether or not we can expect a commitment from your offices for support of some substantial budget request for the purpose of computerizing those records, because -- well, let me digress for the second, if I will, to tell you that our staff has been coding through those records and we cannot get answers to the simplest questions, like too many times in the last five years has so and so had an application before the Board of Estimate, how many variances have been sought, how many tax abatements have been issued, to whom, what were the votes on the series of tax abatements.

So, we view the record keeping currently at the Board, and we're now two years out from the passage of the Goodman Amendment, as essentially rendering the enforcement of that amendment impossible at this point.

I would be interested in your view.

MR. MULHEARN: First of all, let's start with the Goodman Law itself. The Goodman Law did not require any record keeping at the Board of Estimate, at lest the way I read it, except to the extent that
if someone was coming before the Board who had given in excess of $3,000, they had to declare that they had done that, and there had to be a refund situation, and the Board, the Secretary of the Board of Estimate had to publish that name.

The Goodman Law was passed, as you well know, in late session in 1986. We have proposed many reform measures, campaign finance reform measures, which did not pass the Senate, the Republican-controlled Senate. This was the only measure that came out of the Senate. We felt it was poorly drafted, but it was the best they could give us.

We sat down with the Corporation Counsel's Office to look at exactly what the law entailed. We had a number of troubling questions; what do we do with the law? We didn't want to be in a situation, that is, the Corporation Counsel's Office, our office felt we didn't want to put the members of the Board of Estimate in a situation similar to the situation they're in with regard to corporate contributions.

As you know, corporate contributions are kept at $5,000 in the aggregate for all campaigns in the State. You might well receive a $1,000
from some corporation, not knowing that that
corporation has given $10,000 elsewhere in the
State, and be publicly embarrassed when somebody
says, "You've taken a contribution in excess of
this corporation's limitation under the law."

There's no way the candidate could know that, unless
the corporation told that candidate, and, in fact,
when the corporation gave the contribution, it
might well be a legal contribution, and then they
go on to contribute to other candidates and there's
a problem.

Similarly, with the Goodman Law, there's
a situation where the people who are on the Board of
Estimate might be in a fundraising situation and
not know whether or not a particular individual
had business before the Board. The Goodman Law
defines the people who had business before the
Board down to 5 percent shareholders, officers of
companies, partners, so forth and so on.

So, that's a broad list of people and someone
may well not know if they're a limited partner in
some particular partnership that had an applica-
tion before the Board of Estimate on calendars
that have hundreds of items.
So, the question was, how do we -- quite honestly, it was not as much geared for its public information as it was putting the Board members in a position to know, to check whether or not, if they received a contribution in excess of $3,000, whether a particular individual was in violation of the Goodman Law.

So, after the law was passed, we sat down, we looked at it. There was a meeting held with the members of the Board of Estimate to determine what cause of action should be taken. We decided to move to this system of devising a form that would have to be submitted with every matter that came before the Board of Estimate, which would indicate all those people who were so defined by the Goodman Law as having been before the Board of Estimate.

That form was devised. It was distributed to all the agencies. Bill Howell, who is our representative to the Board of Estimate, held briefings with the agency representatives who come before the Board of Estimate, and that was put into place, and we targeted, I think, the November 20th Board of Estimate meeting.
Now, again, this was an extension on the part of the Board. It was not required by the law. The reason we targeted the November 20th meeting was that all these things had to be done in advance of that calendar, in order to give the information.

MR. BIENSTOCK: November 20th of what year?

MR. MULHEARN: 1986.

At the same time, we developed a system whereby the Secretary of the Board would publish the names that were on these forms in the City Record. We thought it would be helpful to computerize those, create a data base, and computerize these names, as well, so that if a particular member of the Board wanted to check, they could get into a computer data base, and it would be easier for them to determine whether or not somebody had had business before the Board.

To do that, I had two other deals, actually, with the veteran community. I had come in contact with a fellow named Bob Tachik, who is with the City University Computer Center, and they had offered their assistance to the City, if the right project came up, where they could come in and take
a look and see if they could develop computer programming. So we asked them to come in, and they agreed to do it.

We put them in touch with the Office of Computer -- OCPC, Office of Computer Plans and Projects, and they went -- the City University and OCPC, along with a technique and staff, went ahead and developed their computer program and put it in place in the Board's office.

I have since learned, because we had -- the next time this really came up was in a discussion a couple of months ago, actually, with Tom O'Keefe from the Comptroller's Office. We learned that at least one agency was interpreting what we were asking for on the form. We said, list all partners, and they weren't listing the partners.

So, we put together a meeting of all the members, the representatives of the members of the Board of Estimate, and we asked the Secretary of the Board to brief us on the status of the system, and what was in place, and so forth and so on.

We learned at that time that he had brought on staff a fellow named Andrew Cooper from HPD in 1987.
told by Andrew Cooper that they had a plan. They
said the system was inadequate and they had a
three-phased plan to make it what they wanted to get.

MR. BIENSTOCK: You are familiar with the
budget requests?

MR. MULHEARN: Yes. But when you direct that
question to me, I have nothing to do with the
budget program. Ted Meekins didn't call me with
regard to his budget request. I don't know how he
made that budget request, through whom, and what
presentation he made. I can't give you any informa-
tion with regard to 2 million versus 900,000.

MR. BIENSTOCK: I am running out of time,
so I think we'll have to consult after this hearing
about that subject.

MAYOR KOCH: I can give you an assurance that
whatever is required to do the computer analysis
that's within my power, which is to propose and
then try to get others to dispose, I will do.

MR. BIENSTOCK: Thank you. I want to ask you
two short questions about the -- hopefully, short
questions about the Funding Law, two provisions,
both of which were not in Mr. Zimroth's and Your
Honor's original proposal.
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One relates to how money raised prior to
the effective date of the law, which would be
referred to as war chest, is dealt with.

In your original proposal, our understanding
is that that money could be spent to a certain ex-
tent, but could not be used for either meeting
the threshold for public funding or be matched.

The Bill that came out of the City Council
treats war chests differently. It allows, to a
certain extent, public funds to match money raised
under the old system. I understand that you
signed that Bill.

My question is whether you support that
notion of matching public funds?

MAYOR KOCH: I support it by way of compro-
mise, and I will give you the reason given to me
by the City Council.

They said that members of the Council are
by far more limited than City-wide candidates in
going to people to get contributions, and that it
would place them at a great disadvantage of they
couldn't use the money for matching purposes.

I mean, they take money in the year before,
it doesn't go for matching. Those people have been
exhausted, because the amount of money that they
give goes towards the total that they can give,
and the pool from which they can obtain additional
monies for matching purposes is very limited.
That was their rationale.

By way of compromise, we gave in.

MR. BIENSTOCK: Do you have a position on
what you're prepared to do with what I will
neutrally refer to as your war chest?

MAYOR KOCH: Whatever the law allows, nothing
more than what the law allows.

MR. BIENSTOCK: Let me ask you a question
about another provision that was not in your origin-
al proposal, and that's a provision which allows
unlimited contributions of unlimited amount to
retire a debt in existence at the date, at the
effective date of the law.

Do you have a view as to the merits of that
provision?

MAYOR KOCH: I don't have a view. I assume
it was part of the compromise. I don't know if
Peter --

MR. BIENSTOCK: Are you familiar with the
legislative history of that, or is Mr. Zimroth
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familiar?

MAYOR KOCH: I'm not familiar with that particular history.

MR. ZIMROTH: There's not much more to say than this was in our original proposal. It was something presented to us, something needed to pass the law, and the argument was that these were campaigns that were not, at the time, subject to these limitations and, therefore, should not -- if you were retiring a debt, it shouldn't be subject to those limitations.

MR. BIENSTOCK: Do you know who many people that provision applies to?

MR. ZIMROTH: No.

MAYOR KOCH: Just to cap it, we don't think that law is perfect. We think the one we proposed is far better, but that's not the way the legislation comes about, particularly controversial legislation, which didn't have a majority to begin with. That majority was put together by Peter Vallone, to his great credit. I don't think he's given enough credit for that.

Part of his putting together -- that was not a unanimously -- I don't think it was --
MR. BIENSTOCK: 24 to 9.

MR. ZIMROTH: That really doesn't accurately reflect the opposition.

MAYOR KOCH: He didn't have a majority to begin with. He had to engage in compromises.

Our hope is -- first, the war chest, that will be out of the way. It will be in the election next year. Our hope is that, as a result of what this Commission does by regulation on its own, they'll cure some of the things that should be cured, and that if they don't have the authority, they'll make recommendations which will have such solemnity that they cannot be rejected by the Council.

MR. BIENSTOCK: My last question relates to that. That is, as I understand the budget request for that Commission, it involves $28 million for the public funding aspect of it, and an additional amount, which I've been told is in the order of $270,000 to $300,000 for the administration of it, and the law requires a certain degree unspecified of computerization.

My question is: Is $300,000 going to get any computerization or the adequate computerization
done?

MAYOR KOCH: I'll go further than that. I'm not sure I'm going to be able to resist the City Council's and Board of Estimate's requests that because they have to come up with $150 million to avoid a real estate tax increase, that they shouldn't -- I say "they" -- be able to defer some of these expenses, because it's not going to be used this year, to put it into the next year. We're resisting that. I don't know that I'll be successful.

MR. BIENSTOCK: So, some of the $28 million will be in jeopardy?

MAYOR KOCH: If I had to venture a guess, I would say is, not will be. It's going to be very hard to resist the Board of Estimate and City Council when they say, we want to take a substantial portion of this $28 million not now used this year, and we'll put it in next year, and we'll use it this year to avoid a real estate tax. It's going to be very hard to resist it. We are at this moment trying to resist it.

MR. BIENSTOCK: What about the administration of the Board? You have to start that; right?
MAYOR KOCH: Well, I'm convinced we'll get the administration going.

MR. BIENSTOCK: Mr. Chairman, I have no further questions.

I want to thank you, Mr. Mayor, for your indulgence.

MAYOR KOCH: Thank you.

THE CHAIRMAN: Thank you very much.

I'd like to just engage in conversation just in one or two areas that you touched on.

One is, you make clear in your prepared statement that you would support additional strengthening of our Campaign Financing Laws. People are convinced the strengthening of that is desirable.

There's a provision that one finds in a number of State laws, to which Mr. Bienstock made reference, that prohibit a public official from soliciting those who do business with government or who have a contract that might be either under consideration or in the process of performance.

Is that kind of provision something that you think we ought to give serious consideration to?

MAYOR KOCH: I think the Charter Commission is putting something on the ballot which exempts
the publicly elected official -- I mean -- my solicitation, or those in public office -- I tell you, I come to meetings that other people have called of potential donors. Is it a solicitation violative of what you're suggesting if I get up and say, "I hope you'll help me," and in that room happen to be people who are doing business with the City of New York and are not otherwise barred by law from participating in the political process and making contributions? Have I violated the law, if what you're suggesting becomes the law, by simply standing up and taking their questions and advocating my philosophy? That's the danger.

But that's why I think maybe the referendum provision, which exempts the elected official, but bars those who are not elected, from participating in the solicitation -- I will be supporting the Charter Reform Provision.

THE CHAIRMAN: One area that I've commented on, personally, but not the Commission, has to do with the war chest provision, that those provisions of the new law do seem to provide an advantage to incumbents that challengers would not have.

Do you see those provisions as beyond the
point of further consideration, in terms of reform?

MAYOR KOCH: For this year?

THE CHAIRMAN: For the next election.

MAYOR KOCH: No. For the next election, I believe it's quite possible that the Commission we have appointed -- I think everybody agrees it's a very high level, prestigious Commission, and people have a lot of respect -- if they were to advocate the elimination of that kind of funding, I believe we'd be able to get it through the City Council, and I would advocate that.

THE CHAIRMAN: In response to Peter Bienstock, you commented with reference to that part of a war chest. The staff has provided me with this information, that the war chest amount of money that is available to you is in the area of maybe $700,000, which --

MAYOR KOCH: I don't think so.

THE CHAIRMAN: My information may be incorrect -- of which of that $700,000 a small portion, maybe 100,00, roughly, can be used for matching gift purposes, which would then leave 600,000 or so that couldn't be used in terms of the 1989 campaign under the current law. That some
disposition would have to be made of it at some point.

You indicated in your response that you would, obviously, do what was legal.

Have you ever given any thought as to arranging possibilities with that extra money that can be used?

MAYOR KOCH: What we might do with that money, if it wasn't used within the time frame allowed? Yes, I would give it to a City charity.

THE CHAIRMAN: I ask your counsel, was the information that was communicated to me substantially accurate, according to your information?

MR. MANDELKER: I think it's substantially accurate. I think you'll find, though, that we have used some of this money for non-campaign purposes, but not City purposes.

For instance, the Mayor had taken about $30,000 worth of public-service type of ads about education and drugs, and those were paid for out of our campaign treasury. Those are not, technically, campaign expenses, and I think that we would envision using the monies for something like that.

MAYOR KOCH: Just to be clear about it, you
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said if we had exhausted the time frame within which it could be used, what would we do with it.

The law prohibits you from using it for yourself, thank God, and I think it gives -- my recollection is, and somewhere in the State law, it states that one of the places you can place campaign funds that are not used is into some charity. That's what I would do.

What Mr. Mdnkelker is referring to is that in an attempt to lobby with the State Legislature to give us our fair share of education aid, which they, regrettably, didn't agree with, we spent in ads taken in every newspaper about $32,000, maybe even a little more, and that came out of the campaign funding.

THE CHAIRMAN: Can I make a suggestion, as a citizen?

Since there are other officeholders with substantial war chest amounts, including the Governor and other City officials, wouldn't it make an excellent statement for you to take the lead, in terms of what you plan to do with your war chest amount over and above what is used within authorized numbers during the next campaign?
MAYOR KOCH: You mean for me to say in some other forum what I've said here?

THE CHAIRMAN: Maybe even a more specific statement as to disposition, what you think you might make of the war chest amounts that aren't used, in connection with the 1989 campaign.

MAYOR KOCH: I just want to be careful about this. Monies that are collected for campaign purposes that cannot be used for the campaign, because there's some time limitation, and you have an option as to how to dispose of them -- I would, and I would say it elsewhere, advocate that my favorite charity happens to be Meals On Wheels, so that's where I'll give those monies.

THE CHAIRMAN: Thank you very much.

Judge Meyer.

COMM. MEYER: There's a good deal of confusion, at least at this point, as to the right of the corporation to contribute through subsidiaries.

The Court of Appeals has a rule which requires, when a brief is filed, the corporation file it with a statement of all the subsidiaries of that corporation that were corporations in which it owns a given percentage of the stock. Whether
or not control, I don't recall.

Is there any reason why a similar requirement shouldn't be imposed both with respect to contributors to the campaigns and with respect to people who do business with the Board of Estimate?

MAYOR KOCH: I would support such a requirement and would urge the new Commission, if it already isn't in the law, to require it.

COMMISSIONER MEYER: Perhaps a little more difficult question would be: With respect to the running of campaign dinners, the Canons of Judicial Ethics indicate that a judge who is running a campaign, who is ill put in the position where he has to raise money is not to know who makes a contribution to his campaign and not be present at any function at which funds are raised.

Is it feasible to impose such a limitation with respect to elected legislative officers?

MAYOR KOCH: No, I don't think so. I think that it's perfectly appropriate, unless someone violates the law and commits a criminal act, that you accept the fact that in our system you can solicit funding directly by -- I don't think it's appropriate to do it on a one-to-one basis,
particularly if you're in high public office, and just by the sheer weight of your title and whatever it is you represent, you're intimidating the guy across the luncheon table. I don't think that's appropriate.

But, to stand up in a crowd, where there are 25 or 50 people, and present yourself and take Q and A, I think that's very appropriate.

COMMISSIONER MEYER: I think there's a difference between what we're talking about. I don't think there's anything that stops a judge from answering questions to the extent that you can, ethics permitting. But when it comes time for the solicitation of funds to be made under formal circumstances, you walk out of the room. The contributions would be to a Treasurer, and the report would be filed with the Treasurer, and the candidate, himself, would never know who had contributed to that campaign.

MAYOR KOCH: Your Honor, if a person sought to be devious and to violate either the law or the spirit, such a devious person would just get a copy of the file reports, and he would know exactly who had contributed. So, I don't think it serves a
purpose. You either have an honest official, who
will not be seduced by the campaign contribution,
or you will have a dishonest official, and you say,
well, you're never going to be told directly by
your campaign who made the contributions, but,
nevertheless, it's a matter of public filing and,
in fact, if it's a large sum of money, it will ap-
pear in the press anyway.

COMMISSIONER MEYER: Isn't there some problem
here with appearances as against whether or not
there's actual hanky-panky?

MAYOR KOCH: I don't think that, as it relates
to priority and appearances, that a candidate,
knowing who is supporting him -- let me ask you this,
if I may: What is the difference between your
knowing who's working in your campaign, who's
working 24 hours a day for you and doing a perfect
job, as opposed to knowing someone who's not work-
ing in your campaign, but sent you a check? Aren't
they equal?

COMMISSIONER MEYER: Not necessarily.

MAYOR KOCH: Why?

COMMISSIONER MEYER: It depends upon the
amount involved, et cetera. But, there is some
problem there, there's no question about that.

THE CHAIRMAN: Thank you.

Commissioner Hynes?

COMMISSIONER HYNES: Mr. Mayor, I was just wondering, has your campaign done any analysis in the last campaign that you ran for Mayor as to what percentage of the total contributions that you received came from corporations or from partnerships as opposed to individuals; do you know?

MAYOR KOCH: I have to turn to Mr. Mandelker.

MR. MANDELKER: We did not.

COMMISSIONER HYNES: Would it be your guess that more than 50 percent of the contributions were from businesses as opposed to individuals?

MR. MANDELKER: I wouldn't even hazard a guess. I don't know that that's so.

COMMISSIONER HYNES: Mr. Mayor, do I understand you correctly that it is your sense that businesses or corporations or partnerships who do business with the City should not be prohibited from making campaign contributions, but if you have the limitation of $3,000, and you don't have the situations where subsidiaries or affiliates can make campaign contributions, that that should be
satisfactory from a perception point of view?

MAYOR KOCH: If the total contribution that can be made by an individual or a corporation and its subsidiaries is capped at $3,000, that -- I think that that's adequate protection for the public, and I would not otherwise prohibit contributions along the line of your question.

COMMISSIONER HYNES: Thank you.

THE CHAIRMAN: Commissioner Emery?

COMMISSIONER EMERY: Mr. Mayor, I wanted to ask you a number of questions about specific fundraising practices, especially given the fact that you've been very progressive since your years in Congress in advocating reform in this area.

As you pointed out in your opening statement, and as you pointed out in answering a number of questions today, in your first mayoralty, your first term, Peter Solomon was a Deputy Mayor or Economic Development. He served about three and a half years; is that correct?

MAYOR KOCH: I think so.

COMMISSIONER EMERY: In that capacity, he was the Chair of the commercial and Industrial Incentives Board, which, as I am sure you know,
mayor koch

gives millions and millions of dollars in tax abatements.

he was, also, i take it, responsible for making recommendations on zoning variances in some instances?

mayor koch: no, nobody makes recommendations on zoning variances. as far as i know, you make your application to the board of standards and appeals, and there are no recommendations that come from the administration on zoning variances.

commissioner emery: in his capacity as chair of the industrial and commercial incentives board, he recommended or he passed on a number of large tax abatements, millions and millions of dollars in tax abatements.

in 1980, i believe, he resigned from your term, from your--

mayor koch: from my administration.

commissioner emery: -- your administration -- excuse me -- and he became your finance chairman in your '81 campaign?

mayor koch: correct.

commissioner emery: and he raised money in that capacity, did he not?
MAYOR KOCH: He did.

COMMISSIONER EMERY: And he raised money, in many instances, did he not, from the very same people who he had passed on tax abatements.

Now, my question to you is, very simply: Given your progressive stance on these matters and your sensitivity to the appearance of relationships between actions of government and campaign contributions, did you set any rules with respect to him not raising money from people, himself, in other words, involving himself, from people on whose tax abatements they can rule?

MAYOR KOCH: The answer is no, I did not. I left everything to his good judgment.

He's an honorable man, and I gave him no particular sanctions.

I think there's a distinction between his raising money, if he were the Economic Deputy Mayor, and in that capacity, and I don't think he did that. You're not suggesting that?

COMMISSIONER EMERY: You mean while he was Deputy Mayor? No, I am not suggesting that.

MAYOR KOCH: It was after he had left government. If you say that after someone leaves...
government that somehow or other they are subject, either legally or morally, to a different standard, then you have to set forth the standard.

Now, we could -- we have rules as to whether you can apply to the government in certain areas once you've been in government, and you may have limitations on terms of years as to whether you can work in a particular area, whether or not you can work in a campaign and solicit.

We could debate that, and I'm not going to say that you're wrong. I'm saying it's a matter that is certainly worth of discussions as to whether or not an impropriety may be perceived by someone, or undue pressure. I doubt that Peter would have engaged in any impropriety or undue pressure, but it is an issue, sure.

COMMISSIONER EMERY: Let me ask you, for example, the other way around, and then I'll ask you general questions about both.

In 1982, I think Peter Solomon also served as your Finance Chairman in your '82 campaign.

MAYOR KOCH: Kenneth Lipper did.

COMMISSIONER EMERY: But there was a Co-Finance Chairman. I'm talking about the '82 campaign for
Mayor Koch

Governor.

MAYOR KOCH: Kenneth Lipper was the Chairman.

COMMISSIONER EMERY: In the '82 campaign, Ken Lipper?

He was your Campaign Deputy Finance Chairman or Finance Chairman?

MAYOR KOCH: I think he was the Finance Chairman.

COMMISSIONER EMERY: And then, shortly thereafter, he came into your administration and took over Peter Solomon's position?

MAYOR KOCH: That's right.

Is there something wrong with that?

COMMISSIONER EMERY: No, I am not suggesting there's anything wrong. I'm just asking you questions.

I take it in his position as Finance Chairman of the campaign, he raised money from people who later on, in his position as Deputy Mayor for Economic Development, he then passed on tax abatements in his position as Chairperson of the Incentives Board?

MAYOR KOCH: That's a point to be considered, sure. I had not considered that.
COMMISSIONER EMERY: Now, I guess my question is: Thinking about the situation where your Finance Chairman, whether it be Lipper or Solomon or any other person, then either prior to or subsequently holds an official position passing on very major discretionary judgments, millions and millions of dollars, and that person is asking the very same people, don't you think it's a real problem, given their highest moral, ethical standards?

MAYOR KOCH: I won't dispute that. Let me just, if I may, respond.

I cannot argue that it's a consideration. I want to tell you how hard it is to get someone to be Deputy Mayor for Economic Affairs in the City of New York. You want somebody who has made a lot of money themselves, so they will make a lot of money for the City. There are very few of those people who want to come in and either serve at whatever the salary is, $80,000 at that time, maybe, or $99,000 today, and to give up, as they must, a lot of financial concerns.

I mean, they have to go through hell to get cleared to be able to take the position, because of their heretofore outside activities.
So, I felt very lucky to get a really first-rate economic hot-shot, which is the way I would refer to Ken Lipper, to come into government, and I think he had a number of options in terms of other offers that were made by other governments at that time, and I was happy that he came to me.

But, this is a consideration which hadn't occurred to me, which maybe people would have felt -- maybe he would have felt, is what you're saying, beholden. That's what I think your implication is.

COMMISSIONER EMERY: For the various people who had either gotten tax abatements or who were about to get, wanted tax abatements.

MAYOR KOCH: Well, they wouldn't say he's not asking me to give money in order to get the tax abatement.

Hold it, Mr. Emery. They didn't know he was going to become a Deputy Mayor on Economic Affairs.

COMMISSIONER EMERY: Well, they might very well expect him to become part of your administration.

MAYOR KOCH: There were lots of people who worked with me. Irving Schneider, Jim Robinson, they didn't become part of my administration.

COMMISSIONER EMERY: I'm talking about these
cases, not those.

In Solomon's case, he had already passed on it. We didn't know whether after the campaign he would go right back into the same job. But, put that aside.

In the case of Mr. Lipper, I take it -- I am asking you this question, because I don't know the answer in any way, shape or form. After he resigned the campaign and joined your administration, did he continue to raise money in any way during the administration?

MAYOR KOCH: I don't think so, but I have no way --

COMMISSIONER EMERY: He was the Commissioner at the time?

MAYOR KOCH: He was not a Commissioner. He was the Deputy Mayor on Economic Development. I do not believe he was involved in fundraising after he came into the government.

COMMISSIONER EMERY: And, of course, at some point subsequently, he started -- he resigned and started his own fundraising, he ran for City Council President?

MAYOR KOCH: He did.
COMMISSIONER EMERY: Now, on another matter --

MAYOR KOCH: By the way, it was, you know, mutual. I said to him, when he was thinking of running, "You cannot," and he understood that it was not imposing -- he cannot run for a public office and remain in government. We don't allow that for our managers, and we don't allow it for our highest appointed officials.

COMMISSIONER EMERY: Your Honor, do you remember at all the circumstances of the resignation of a -- the Chair of your Advisory Commission on Cultural Affairs, William Barnabas McHenry?

MAYOR KOCH: I remember his leaving, yes.

COMMISSIONER EMERY: Did that at all have anything to do with campaign contributions?

MAYOR KOCH: I don't think so.

COMMISSIONER EMERY: You have no recollection of that?

MAYOR KOCH: No.

COMMISSIONER EMERY: Let me ask you a couple of more quick questions.

With respect to August of 1985, I believe that, if I am not mistaken, you attended a fundraiser in the Rainbow Room of the carting industry.
Carting industry representatives were in the Rainbow Room?

MAYOR KOCH: Yes.

COMMISSIONER EMERY: At that fundraiser, two of your Commissioners, Mr. Angelo Aponte and Mr. Norman Steisel, were there and they gave presentations. What I am asking you is: Do you think it's appropriate for Commissioners to raise money from the very people that they regulate?

MAYOR KOCH: Definitely not appropriate. It's wrong, wrong to do.

Mr. Mandelker says he can supplement it.

MR. MANDELKER: In fact, I met with a number of Commissioners during the 1985 campaign to specifically tell them that the policy of the campaign was not to have them involved in the solicitation of contributions, not only from industries which they might regulate or to which they may grant or deny applications, but not to solicit contributions at all, period.

COMMISSIONER EMERY: But I take it that this event was an exception to that?

MR. MANDELKER: I'm not familiar with the event, and I'm not familiar with the presentations
that the two gentlemen made, and I also am not sure that in 1985 -- was Norman Steisel still with the administration in 1985?

COMMISSIONER EMERY: I believe he was at the event in the Rainbow Room.

My understanding was the Mayor was there and the two Commissioners were there. After he left, they made representations concerning raising money from the carting industry.

MR. MANDELKER: It's very difficult for me to believe, knowing Angelo Aponte, that he would have done such a thing.

As far as Norman, I don't know if he was in the administration or not in the administration. I don't have firsthand knowledge of that.

I just know what our operating procedure was, and I know about the conversation that I had with Angelo Aponte, and I know the type of person he is.

COMMISSIONER EMERY: Let me ask you one quick final question, and that is: I take it there was a DOI investigation in '86 of Jay Turoff, who, at that time, was TLC Commissioner, and his activities, to some degree, in raising money, but, primarily, in soliciting in kind contributions from the taxi
industry on the day of the election. That is, ferrying, bringing elderly and handicapped voters in, and he was like Danny DeVito sitting in the actual taxi office sending out cabs.

Now, if that's incorrect, I would like to be corrected, but --

MR. MANDELKER: I think you mixed up two separate issues.

COMMISSIONER EMERY: Tell me in what way.

MR. MANDELKER: Issue number one, is a Commissioner on his time off able to work in a campaign and to act as a volunteer dispatcher of cabs? Volunteer dispatcher means you call up and say, company so and so, send a cab to such and such a place to pick up a voter. That's one issue.

A separate issue is, did Jay Turoff solicit that kind of participation from cabs in the Election Day service.

It had subsequently turned out that he did. That was in direct violation of City policy and campaign policy. He was not supposed to do that and he did it. That's just -- that was his personal act. That was not what we wanted.

COMMISSIONER EMERY: I guess then the
question to the Mayor is simply that, I take it your position is that Commissioners should not be soliciting, as part of your campaign, from the industry they regulate?

MAYOR KOCH: Yes.

COMMISSIONER EMERY: But it's not something you heard?

MAYOR KOCH: You're absolutely correct in that statement.

COMMISSIONER EMERY: Thank you.

THE CHAIRMAN: Commissioner Magavern?

COMMISSIONER MAGAVERN: Mr. Mayor, I'd like to address my first question to you and your colleagues at this table.

My question is: When the time came to determine, upon your voluntary campaign limitations, and then, again, when it came time to determine the content of the local law which limits campaign contributions -- maybe we ought to take them in order. Take first the voluntary limitations and take the most recent time you've set those limitations.

At that time, did it occur to any of you that there was a practice of corporations using
subsidiaries and affiliates in order to aggregate contributions from what, in effect, is a single business entity, and did you address that question in your own thinking?

MAYOR KOCH: When I set the $2,000 limitation in the voluntary period, when we first put that into effect, the matter of subsidiaries was not considered, not considered.

COMMISSIONER MAGAVERN: Has it ever come to the attention of you and your colleagues, as a matter of policy in determining your own voluntary limitations?

MAYOR KOCH: Subsidiaries, up until the change in the law, where I believe that subsidiaries should not be able to add to the contribution of the principal corporation -- subsidiaries were never discussed, as far as I know.

COMMISSIONER MAGAVERN: I take it you were aware of the practice of corporations breaking up contributions among affiliates and their subsidiaries?

MAYOR KOCH: Yes.

COMMISSIONER MAGAVERN: And the thought simply didn't occur to you?

MAYOR KOCH: It was legal.
MR. MANDELKER: May I just add something?

One of the reasons we never addressed this issue, since an individual could give five, ten, fifteen, twenty-five, $50,000 -- the thought that somebody would go to a corporation and use five corporate entities to contribute $25,000 as opposed to just contributing $25,000 in his or her own name didn't seem to us to be a very pressing issue, and I remember, when I testified here last March, there was a pie chart describing the percentages of corporate contributions to individual contributions, and for the Mayor it was relatively small.

Now that the campaign contribution level has been lowered to $3,000, the use of corporate affiliates and subsidiaries to get around that is a much more urgent problem. It was much less urgent when the limitation was $50,000.

COMMISSIONER MAGAVERN: When you had your voluntary limitations, you had limitations as individuals, as well as corporations.

Were you concerned about the possibility that individuals, as well as corporations, might, in effect, aggregate contributions among a group of closely-related people?
MAYOR KOCH: It was not the subject of discussion, as I can recall.

COMMISSIONER MAGAVERN: I will go to another subject, that is, the question of motives of contributors and the public perception of motives.

My concern is, as introduction to my question, is the public simply misinformed and naive if they are concerned to think that contributors may have a motive, other than pure friendship or pure altruism?

MAYOR KOCH: No.

COMMISSIONER MAGAVERN: More specifically, you have stated two kinds of motivation. On the one hand, there's the, in effect, the buying of votes or buying of decisions. You've said you don't believe that happens, not often, and you're not aware of cases of it.

You also, I think, have given instances of contributions motivated by pure friendship or pure altruism.

MAYOR KOCH: I gave you a third.

COMMISSIONER MAGAVERN: I was looking for a middle ground.

MAYOR KOCH: Which was to preclude hostility.
Some people are afraid of hostility.

COMMISSIONER MAGAVERN: Can you elaborate on that?

MAYOR KOCH: Sure. I believe that lots of people contribute to candidates who are opposing one another, just so as to have in their head a level playing field, and they just make a contribution to Mr. X or Mr. Y, running for the same office. It's a subject -- I have the feeling that they have -- I cannot get to the heads of the people whom they're making the contributions to, as to whether, if they had not, it would have created hostility.

So, if I may say, from my point of view, knowing my relationship with Donald Trump is not the greatest -- there are two occasions when he has been very helpful to me in the past in terms of campaign support, and on one occasion I opposed his getting a tax abatement, which, ultimately, regretfully, the Court of Appeals overruled us, and as a result of their decision, twenty or more million -- I even heard $40 million -- and it's wrong. It's over. We're stuck with the courts.

I opposed him. He couldn't understand that.
He called me up. He went and denounced the guy who was opposing him at that time, too, the Commissioner, Tony Gleidman. He went and hired Tony Gleidman after he left. Who knows, maybe to cure him (laughter).

So, that's that.

The second time Trump made a comment was after he wanted tax abatement for his west side property, to bring NBC in, and up until I said no, I was a great Mayor. Even the night before he received my letter, in which I said no, he said to those assembled, "One of the great Mayors."

The day I said no, which meant, I don't know, maybe a hundred million dollars -- I can't tell you exactly what it would have meant over what period of years -- from that day, he became enraged, because he had been a supporter of mine. This is what he said, as I recall, on television. He said, "Ed Koch does not help his friends."

Well, I hope that that's not totally true. I do not help my friends at government expense. I do help my friends, personally, but not through governmental action.

So, I just cited those two from my own personal
history.

Now, how others act under these circumstances, I'm not able to say.

I want to make clear that Donald Trump was not engaging in any unethical act by seeking these tax abatements. I mean, he's a businessman. He thought he was entitled to it. I had to make a governmental decision. I'm not casting aspersions on him as it related to his request. But, I took a governmental action he didn't like, and he attacked me.

COMMISSIONER MAGAVERN: Would it be fair to conclude, in your opinion, contributors often contribute out of fear of incurring the hostility of people who will be making decisions affecting their business?

MAYOR KOCH: I don't know about often, but that some -- I think Mr. Zeckendorf has said something along those lines, about why he made contributions to some candidates.

COMMISSIONER MAGAVERN: Would it also be fair that, in your opinion, and in your experience, you would believe that some contributors expect officials to treat them as friends, by reason of
their contributions?

MAYOR KOCH: There's no question in my mind that some people make contributions, and they think that will buy them something that they would not otherwise have. That does not exist with me, and I don't think it exists with most public officials.

Obviously, based on the fact that there are some corrupt people, some have already been convicted, it does exist with some. I believe the public is right in worrying about the size contributions, and that the propriety and appearance is as important as the substance. I mean, that's not a new thought.

I think -- isn't there an adage about justice, the perception of justice is as important as justice itself.

COMMISSIONER MAGAVERN: My point is, we are talking about perceptions that seem to be grounded in common human experience and reality, namely, that people may be influenced by large contributions, and the public is not simply misinformed if they're worried about that.

MAYOR KOCH: I say that that perception, and
maybe on occasion the fact of it requires that we reduce the expenditures and put caps on and do things that you're urging be done, and I support you in doing it.

COMMISSIONER MAGAVERN: Thank you, Mr. Mayor.

MR. BIENSTOCK: One final question, and this question is probably best directed to Mr. Mandelker. When we scrutinize the July 15, 1988 filing, which relates back to January of this year, are we going to find no corporate affiliates which aggregate more than $3,000 after February 29th?

MR. MANDELKER: I don't know yet. We haven't looked at the report.

MR. BIENSTOCK: But that would be the policy? The policy is not to accept more than $3,000 from corporate affiliates after the date of the new law?

MR. MANDELKER: I just heard it.

MAYOR KOCH: After the date of the new law, there's no question about it.

Let me make it very clear. Our position is that subsidiaries have to be perceived as part of the principal, and if we have received money from subsidiaries that violate that principle, we will return it.
MR. BIENSTOCK: How will you determine that?

MAYOR KOCH: I have to leave it to Larry Mandelker to make the best search he can.

THE CHAIRMAN: I'd like to thank you very much for your participation, and I'd also like the public record to reflect the extensive assistance that has been provided our Commissioner in connection with our many inquiries since last April by the Corporation Counsel, Peter Zimroth, and your counsel, Pat Mulhearn.

We will take a brief recess.

(Whereupon, a brief recess was taken at 10:45 o'clock a.m.)

(Thereupon, at 10:50 o'clock a.m., the following proceedings were had:)

THE CHAIRMAN: Mr. Andrew Stein?

Mr. Stein, I'd like to swear you in.

ANDREW STEIN, called as a witness, having been first duly sworn by the Chairman, was examined and testified as follows:

THE CHAIRMAN: Please be seated.

MR. STEIN: Thank you.

THE CHAIRMAN: I'd like to recognize Constance Cushman.
MS. CUSHMAN: Good morning, Mr. Stein.

MR. STEIN: Good morning.

MS. CUSHMAN: I am going to be asking you a number of questions this morning concerning your fundraising practices, and if some of the questions that I ask you involve a level of detail which is beyond your immediate knowledge, I would ask if you have staff members whom you have brought with you, so you can refer to them to assist you in answering the questions?

If so, we would like to have them sworn at this time.

MR. STEIN: I brought Victoria Streitfeld, who is my Board of Estimate representative, since some of these issues may deal with the Board of Estimate, and probably will, and I bought John Higgins from my office, whom I've asked to look into and monitor the whole issue of the Goodman Amendment. I've brought those two people.

MS. CUSHMAN: Do you expect that they may be answering some of the questions?

MR. STEIN: It's hard to know. They may.

MS. CUSHMAN: Perhaps, Mr. Chairman, we should follow the procedure we followed earlier.
THE CHAIRMAN: They're certainly welcome to join you at the witness table.

Why don't we, in the event it becomes necessary to swear them in later, just swear them in now.

(Whereupon, Victoria Steitfeld and John Higgins were duly sworn by the Chairman.)

THE CHAIRMAN: Please be seated.

MS. CUSHMAN: Mr. Stein, in March, this Commission heard testimony from your campaign manager, Mr. Friedman, who said you were the person who handled fundraising on behalf of your Campaign Committee directly. That, as distinguished from some other committees who appoint the fundraiser, this was a responsibility that you took yourself directly; is that correct?

MR. STEIN: Well, in 1984, when I ran for Congress, we hired a fundraising concern to do a lot of it.

And in 1985, I had just finished an unsuccessful race for Congress, was facing another race, literally, within two months, and we just ran right into the campaign.

This coming year, in 1989, we are going to hire a professional to do it.
I think a lot of it was just a function of the circumstances of having been in a campaign, having to then turn around to go into another one right away. So, I did a lot of it. We had over a dozen fundraising functions that we did out of Mr. Friedman's office and Mr. Toll's office, my accountant.

MS. CUSHMAN: Mr. stein, you've run a number of races, however, for public office, have you not?

MR. STEIN: Yes.

MS. CUSHMAN: And during these years prior to the 1984 Congressional race, have you not made it a practice to handle your own fundraising, by and large, as opposed to hiring somebody to do it for you, a professional?

MR. STEIN: Yes. For the Assembly races, there wasn't all that much fundraising involved.

Going back to the first one, where there was a lot of money spent, my father did most of it, and after that, there was very little money or fundraising in the 1977 race. My family did a lot of it, I did some of it.

And the same with 1981.

You have to understand that, I would say,
going back twenty years, which is what I've been in elective office, I've had a lot of friends and supporters, people I grew up with, people I knew all my life, who have raised money for me. A lot of my contributors go back, literally, to my first race and my early Assembly races, and have been continuous supporters of me. A lot of my supporters are family friends and personal friends.

MS. CUSHMAN: When we first began looking into this area, the staff of the Commission contacted your office to identify the person who would be most knowledgeable about fundraising, and at that time, you invited us to come discuss the matter with you directly, and, in fact, we did discuss at some lengthy your fundraising philosophy and your approach to fundraising; is that right?

MR. STEIN: Yes, we did.

MS. CUSHMAN: Could you describe at this time for the Commissioner what you previously described to us as your approach to fundraising? By that I mean, who you choose to approach, how you choose to expand the network of people who might become your contributors, and so forth.

MR. STEIN: Surely. Well, as I said before,
I have a network of, you know, people, a basic network of people, who have been supporting me for quite a period of time. A lot of them are old friends of mine, old family friends. Some do business with the City, some don't do any business with the City. They are people I have known for a long time. They have been a basic network.

You always try and involve more people in that network, a hard core of people.

Then you have fundraising events. We try and bring in other people.

But I would say that a lot of it is personal friends, personal contacts that have been developed over a long period of time, both from personal relationships and from being in politics for twenty years.

MS. CUSHMAN: And do you recall telling us about how you prefer, in fact, to develop personal relationships before you request financial assistance from people who might become your contributors?

MR. STEIN: Well, there's no question about that. One of the more unpleasant, if not most unpleasant, parts of running for public office is the whole area of fundraising. It's not a lot of
fun, and it's something you have to do if you're a serious candidate for major office and you want to get elected.

I find that you're dealing in fundraising, you're dealing with the human dynamic, and I find that if you have a friendship, a personal relationship with someone, that it makes it much easier when you're in a campaign, if you need help, to ask for it than just sort of going to people cold and asking them for assistance.

So, I have a basis of -- a basic group of friends that have been helping me for, as I said, going back a long period of time, and over the years I've added to that and built strong friendships with people who I can count on to support me, and they can get their friends to support me, as well.

MS. CUSHMAN: Have you developed a list of people that you can solicit for campaign contributions that's basically your solicitation list?

MR. STEIN: Uh-huh.

MS. CUSHMAN: How did you go about developing that list?

MR. STEIN: Well, again, without repeating
myself, a lot of it is based on that -- the list we have accrued over the years and, obviously, you sort of know who has given maybe to Cuomo and Koch and Abrams, and some of the other big contributors, or who has been very involved in presidential races.

You see someone who's very, very involved in a Mondale race, for instance, and raised a lot of money, and you may be trying to get them involved, develop a friendship there.

It's really a network built on personal relationships, and there's no sort of one way that it develops. I think there's sort of a core list which gets built on.

MS. CUSHMAN: Do you use other candidates' campaign filings to identify potentially significant contributors?

MR. STEIN: I don't think we -- I don't remember if we used the filings per se, but when you're in the business, you're aware who is active in someone else's campaign, and maybe they can be active in yours.

MS. CUSHMAN: Do you obtain lists of potential contributors from charitable institutions or
Stein

charitable fundraising --

MR. STEIN: We have over the years. Yes, we have.

MS. CUSHMAN: Now, not from anybody who is connected with today's hearing, but in the course of reviewing the Goodman Amendment, you are familiar with the Goodman Amendment and what it requires?

MR. STEIN: Yes.

MS. CUSHMAN: In the course of looking into questions relating to the Goodman Amendment, the staff contacted people involved in government, and one individual suggested that a campaign fundraiser would be remiss in not using the list generated for purposes of compliance with the Goodman Amendment, that is, the list of corporations or other individuals that have come before the Board of Estimate for fundraising purposes.

Do you have a view of the propriety of using such a list of people who have done business with government for fundraising purposes?

MR. STEIN: I'm sorry, I didn't understand your question.

MS. CUSHMAN: Pursuant to the Goodman Amendment.
MR. STEIN: I understand, except what you're speaking -- physically talking about.

MS. CUSHMAN: The people with matters before the Board of Estimate fill out forms, the Form 333, and then the Board of Estimate compiles a list which is published in the City Record, and that's the list I am referring to.

MR. STEIN: One of the problems with the Goodman Amendment is that in a sense it interrelates your office and fundraising, which I've always separated.

In other words, because of the Goodman Amendment, you have to have someone on your staff who will monitor the Goodman Amendment. You have to compile this list, so that the area between the office and fundraising becomes -- by necessity, in terms of complying with the law, becomes much more intertwined.

If they publish the list, and I never thought about it, I guess if they published the lists, it's hard -- I guess you could really prohibit someone from using it, but in the real world, I think it's hard, because it's public domain. It's there, and I would -- I don't think it's a great thing to have
it, but it's there and it's going to be hard to stop people from using it, I would think, because it's a public record.

MS. CUSHMAN: Well, you could instruct anyone raising money on your behalf not to use that list, could you not?

MR. STEIN: I could.

MS. CUSHMAN: When we spoke earlier, you mentioned that you considered the Wall Street community and developers excellent sources of contributions. What was it about them that makes them good sources of contribution?

MR. STEIN: They have a lot of money.

(Laughter.)

MS. CUSHMAN: Isn't it also true that they do a great deal of business with the City?

MR. STEIN: Yes, it is.

MS. CUSHMAN: You mentioned that you have a large network of personal friends who contribute in large amounts. They include, do they not, Jeffrey and Rubin Glick?

MR. STEIN: Yes.

MS. CUSHMAN: And Zachary and Larry Fisher?

MR. STEIN: Yes.
MS. CUSHMAN: Donald Trump?

MR. STEIN: Yes.

MS. CUSHMAN: Gerald Guterman?

MR. STEIN: Yes.

MS. CUSHMAN: Paul and Harold Millstein?

MR. STEIN: Yes.

MS. CUSHMAN: William Zeckendorf?

MR. STEIN: Yes.

MS. CUSHMAN: Aren't these people who have also a great deal of business with the City?

MR. STEIN: Uh-huh.

MS. CUSHMAN: Now, in your campaign for City Council President, was there anything about that race that -- you alluded to the fact that you had just come off a Congressional race -- that caused you to modify or adapt what had been your previous fundraising practices in any way? Did you develop a strategy --

MR. STEIN: Well, I was running against -- I just finished an unsuccessful race for Congress, and I was then faced with another race for City Council President, literally within a month or so.

I was running against a fellow who has
hundreds of millions of dollars, is extremely wealthy, and had communicated through mutual friends that he intended to spend over five million in a very sort of arrogant and cavalier way, and that almost sort of hinted I shouldn't bother to run, because he was going to overwhelm me with money. He told that to one mutual friend, that he was going to put millions and millions of his own in, and so forth.

We knew we were not going to spend as much as he was, but we had to have enough to run a good campaign.

MS. CUSHMAN: So, what was the strategy that you adopted in connection with the '85 race?

MR. STEIN: The strategy was to raise enough money to be competitive.

MS. CUSHMAN: Did that include trying to make use of your own time cost effective by soliciting significant contributions from a relatively fewer number of people, rather than a larger number of contributions, and holding fund-raising dinners and things like that?

MR. STEIN: Well, you know, I have witnessed the presidential candidates. I was a good friend
and still am a good friend of Fritz Mondale, and
saw what he went through in '84.

I know a lot of these presidential candidates,
and I see what they go through now. It's not
different running for President of the United States,
President of the City Council. You have to spend
a large amount of time raising money.

I know that the people running for President
-- I've seen it this time, I saw it last time --
their staff gives them lists and lists of people.
Sometimes they're in hotel rooms for five, six
hours at a time making calls to people throughout
the country. They have the lunches and dinners
with people, asking for their help.

There's no easy way to do it, whether it's
President or President of the City Council. You
have to ask people to assist you and to help you,
and I don't think we've had -- it was written down
as a hard and fast strategy, but we knew we didn't
have a lot of time, because my opponent went on
television rather early in the spring, which was
unusual for this type of a race, and started
spending large amounts of money on television. I
don't know the exact time, but I think as early as
April, and we could not afford to -- we could not
afford to let him be on television for long periods
of time without us being.

So, there was a real -- I won't say urgency,
but there was a real concern that we had to raise
money to be competitive with this guy who could
just put a million dollars of his own in the
campaign and did.

MS. CUSHMAN: And, in part, one of the things
you did in order to have cash available when you
needed to spend it was to take substantial loans
from commercial banks; isn't that right?

MR. STEIN: Yes, that's correct.

MS. CUSHMAN: I'd like to talk about the loans
a little bit more later, but at the moment, let me
turn to a different subject, which is the question
of many corporations from the same family group of
corporations that are connected or controlled by
one individual.

In your campaign, you have received on certain
occasions a number of contributions from corporate
entities that are Donald Trump corporations or
corporate entities that are controlled by Ronald
Pearlman.
The City Public Funding Bill lowers the amount of contributions, so that a corporation can no longer give $5,000 in New York City, but rather $3,000 now.

MR. STEIN: $3,000.

MS. CUSHMAN: We've heard the Mayor this morning take the position that the City Bill can be interpreted and should be interpreted and will be interpreted by his Campaign Committee to preclude multiple corporations contributing if they're all controlled by the same person, if they're affiliated corporations.

So, all of the Donald Trump corporations, for example, would be collectively restricted to $3,000.

What is your view of this proposal and the City Bill as it pertains to this provision?

MR. STEIN: I haven't studied it. I think that one service this Commission is doing and can continue to do is look at the City Bill to see what the loopholes are and to try to tighten it up.

I think the one problem you have is that you have certain legislation, whether it was the State
legislation in the past, or now it's the Public
Financing Bill in the City, and the same in the
Federal Government, and I think that whatever the
law is, people are supposed to live within the
law and follow the law very strictly.

But, then I think you can't go back retro-
actively and say, well, this is what the law was,
and we don't like it, and why did you do things
that way. The answer is, because that's the way
the law read.

I think it's very important now, with the
Commission's focus on all of this area of campaign
financing -- and it's a complicated area, and I
think you'll find that no matter what you do and
no matter what is done -- I think a lot of very
positive things have been done over the last six
months -- there always are pushes and pulls, and
when you think you have a perfect law, when you
look at it three years hence, you will see there
were X and Y that were wrong, and why didn't we
think of this and that.

I think one thing that you can do is to
suggest specific amendments to the City Council
as to how we can tighten or be very specific, so
there is not a lot of interpretation allowed in the law.

Now, I'll take a look at the corporate contributions, and I think that's one thing that you could recommend to the City Council, to tighten up the bill that was passed by the City to specifically say, perhaps, that one corporation for one person -- one corporation can only give once to an individual.

MS. CUSHMAN: Has your Campaign Committee been involved raising money since the new City Council Bill has passed, the Public Funding Bill?

MR. STEIN: In a very, very minor sort of way, if at all.

MS. CUSHMAN: Do you know whether, between the end of February and today, you received corporate contributions?

MR. STEIN: I am not sure. I don't believe so. I can't say a hundred percent so, but I don't think so.

MS. CUSHMAN: We spoke a bit about the $5,000 limit under State law, corporate contributions, and, as you know, that's an aggregate limit. So that in -- and we have noticed that from time
to time Campaign Committees are involved in refunding corporate contributions or other contributions for one reason or another.

There are a couple of instances of that in your filing, which we have been unable to understand or get a clear picture of, and I wonder if you could address that.

If you look at Exhibit 15 in the book in front of you --

MR. STEIN: It's a big book.

MS. CUSHMAN: It's a little hard to get the pages around the rings, but if you could just go to Exhibit 15?

MR. STEIN: Okay.

MS. CUSHMAN: When I spoke of the 5,000, I meant that any one corporate entity, that is, a corporation, can only give 5,000.

MR. STEIN: To anybody.

MS. CUSHMAN: To anybody.

So, you might be in a position of receiving $5,000, and the corporation may have given in excess of its allowed limit?

MR. STEIN: That's correct.

MS. CUSHMAN: Exhibit 15, toward the bottom
of the page, shows refunds. Actually, at the top it shows refunds to Jack Resnick & Sons, Resnick Building Company, Resnick Development Corp., and Albanese Development Corp.

If you turn to Exhibit 19, at Page 6, Exhibit 19, actually at Page 2, Page 4 and Page 6, those appear to be --

MR. STEIN: Page 19 here?

MS. CUSHMAN: Exhibit 19, and there are pages in there which are not separately numbered, the second page, fourth page and sixth page.

On those pages, there appear to be contributions received from the Resnick Development Corporation. The first contribution is on March 12th, the second contribution is on July 30th and July 30th again, 5,000, 5,000, and the first one being $2,500.

On Exhibit 15, the refund was for $12,500, and on Page 6 of Exhibit 19, on March 19, 1986, we see Jack Resnick, personally, and Burton Resnick, personally, what totals $12,500.

Do you know what happened in that situation?

MR. STEIN: I honestly don't. I can check it for you.
MS. CUSHMAN: It is conceivable that was simply a situation where the Resnick companies had exceeded their corporate limit on giving, but the Resnick brothers decided they preferred to continue to support your campaign and return the money to you in their individual names?

MR. STEIN: I just don't know, but I can certainly find out for you.

MS. CUSHMAN: Now, if you look at Exhibit 18, we see the same sort of thing apparently taking place in your filings on Exhibit 18. On Page 2 and 4, there are contributions on June 14th and November 27th of 1985 totalling $4,500. The refund on Exhibit 15 was for that same amount, and on Page 6 of Exhibit 18, you see Vincent Albanese giving you $2,500 himself, personally, and Anthony Albanese gives you $2,250. So, the individual corporate partners or principals, gave you the same amount if money in toto.

Do you know what took place in that situation?

MR. STEIN: I really don't. I can find out.

MS. CUSHMAN: Now, there's another aspect of this situation which has come to our attention, and it's reflected in Exhibits 16 and 17 of the
book before you.

On Exhibit 16, there's an item before the Board of estimate, March 20, 1986, "Resolved, Calendar No. 4, that an application by U.N. Plaza Tower Associates," which is an Albanese company, for a -- I believe it's a zoning variance or a special permit.

On Exhibit 17, we see the roll call on the second page on March 20, 1986. Vincent Albanese is appearing in connection with Calendar No. 4, representing United Nations Plaza Associates, and 11 to 1, a special permit was granted -- 11 to 0.

MR. STEIN: Right.

MS. CUSHMAN: Was there any connection between those two transactions, the return of the campaign contribution on that date and the Albanese individually making their contributions to you and the matter that was on before the Board of Estimate?

THE WITNESS: I just don't remember. I have no idea. I can find out for you and get back to you immediately.

MS. CUSHMAN: I'm not meaning to suggest that there was, but you would agree, would you not, that there might be an appearance problem with a
transaction such as this?

MR. STEIN: I'll find out what the situation was for you, specifically. I don't want to speculate about it.

MS. CUSHMAN: I'd like to turn to the subject of loans.

MR. STEIN: Can I put this away?

MS. CUSHMAN: Right.

As of your most recent campaign filings, as we read them, you still had over $330,000 in outstanding loans.

Is that still the case?

MR. STEIN: I don't believe so.

MS. CUSHMAN: What is your sense of how much you have outstanding in campaign loans?

MR. STEIN: I thought it was more like 150,000, but I'll be --

MS. CUSHMAN: Have you repaid substantial amounts of campaign loans?

MR. STEIN: Do you want to give me specific --

MS. CUSHMAN: If you'll look at Exhibit 47 -- I think you'll have to go back to the black book.

Page 2 of that exhibit shows the outstanding
loan balance of your Campaign Committee as reflected
in a January 11, 1988 filing, as $334,875.

MR STEIN: This is what date?

MS. CUSHMAN: This is as of your most recent
filings.

MR. STEIN: Which was then?


MR. STEIN: We've paid, I think -- I think
it's down to $150,000.

MS. CUSHMAN: Have you repaid the loans that
you had outstanding to the banks or the loans you
had outstanding to individuals during that interim?

MR. STEIN: I believe a little bit of both,
but, again, we can get the exact figures for you
today and give them to you.

MS. CUSHMAN: In connection with taking out
your bank loans, you had asked a number of individuals
to guarantee those loans; isn't that right?

MR. STEIN: That's correct.

MS. CUSHMAN: What did you say to those
individuals when you asked them to guarantee the
bank loans which you took out?

MR. STEIN: I don't remember the exact
language, but, basically, we needed a loan. We
needed to get on television, and we asked them to participate. There were people participating in the loan. We needed the funds rather quickly to get on television, and we asked them if they would go on the loan.

MS. CUSHMAN: Did you suggest to them that they would ultimately repay the loans to the banks, or did you suggest to them that the Campaign Committee would ultimately take responsibilities for the loans?

MR. STEIN: Again, I don't remember the exact language, but I don't think I suggested anything other than that I asked if they could go on the loan. I don't think it was specified whether they -- any embellishment on it, other than going on a loan.

MS. CUSHMAN: In fact, a good many of the guarantors were asked ultimately to pay the amount that they had guaranteed and helped you repay the loan after the election; isn't that right?

MR. STEIN: Some repaid the loan, some the campaign paid, some they paid, and some, I think, split the difference.

MS. CUSHMAN: In some instances, isn't it
true that instead of the guarantors repaying the
loans to the banks, they converted those amounts
or some portion of those amounts into personal
loans to the Campaign Committee, enabling the
Campaign Committee to repay the banks, and making
the Campaign Committee, instead, owe monies to
these individuals?

MR. STEIN: Yes.

MS. CUSHMAN: And among the people that
participated in this kind of transaction were
Phillip Ian Cohen, in the amount of $50,000,
Steven Cohen, in the amount of $37,500, Thomas
Berger in the amount of $37,500, and the law firm
of Citone, Katz, Lebow & David, in the amount of
$55,000? Do you recall that?

MR. STEIN: Yes.

MS. CUSHMAN: Isn't it true that all of
these individuals are in some way connected to
Telecom Plus Company?

MR. STEIN: Steve Cohen is. Phillip Cohen,
I don't know. The law firm, I don't know if they
are or not.

MS. CUSHMAN: Phillip Cohen, I believe, is
a director of the Telecom Company. Isn't it
true that the Telecom Company has a substantial
amount of business with the City of New York and
does apply before the Board of Estimate for various
contracts?

MR. STEIN: It's a silly issue, because, first
of all, my father was on the Board of that company.
He arranged for all these things. I never talked
to anybody about anything to do with the Board of
Estimate. I had no idea that they did business
with the Board of Estimate until there was a vote,
and Vickie can refresh my recollection, but I never
talked to any of these people about the Board of
Estimate. I had no concept that the company did
business with the Board of Estimate. My votes
had nothing to do with it.

This was done through -- basically through
my father, who was also on the Board and was a
good friend of steve Cohen's at that time. I had
absolutely no idea that this company had anything
in any way, shape or form to do with the Board of
Estimate until it came out in some trade publication,
and I shouldn't recuse myself from the vote. I
was not involved in any way, shape, form of helping
them, or didn't know at the time I voted that they
did business with the Board of Estimate.

MS. CUSHMAN: But you do agree that this does create an appearance problem in connection with the types of these loans?

MR. STEIN: Everyone has their -- you may have a sense of what an appearance problem is, and the Chairman and everybody up here, the press may, the public may. You know, appearance problem depends on the person who has the opinion. The truth is, which is what i'm concerned about, what the reality is, that I had absolutely no idea that these people had anything to do with the Board of Estimate, absolutely none and, if I did, I certainly would have excused myself from the vote.

So, I don't know what the appearance is. You'll have a judgment, and so will everybody else have a judgment that knows about this issue. But the truth is, that I had absolutely no idea that these people had anything in any way, shape or form, to do with the Board of Estimate when I was getting help from them.

MS. CUSHMAN: However, your Campaign Committee was $180,000 in debt to a company which, the records show, was obtaining over $1 million in City business
about the same time?

MR. STEIN: Connie, you know, if I didn't
know, and I'm telling you I didn't know -- I had
absolutely no conception, not even a tiny little
inkling, of anything to do with the Board of
Estimate, and, you know, I can't -- if I didn't
know, I didn't know, and I didn't.

MS. CUSHMAN: We accept your word for that.

MR. STEIN: Thank you.

MS. CUSHMAN: We're not attempting to suggest
that you knew something that you did not know.
We fully accept your word for that.

I'd like to turn to the new City Bill as
it affects loans that are currently in place or
in existence, debts which the Campaign Committee
must pay off at some point prior to being able to
raise more money.

You've gone on record as saying, I believe,
campaign finance reform, contribution limits and
all of that increased disclosure, and the new Bill,
does contain provision for all that, but it also
contains a provision referring to loans which
allows for the raising of otherwise unlimited
amounts of money. When I say "otherwise unlimited,"

I'm assuming the State law limitations on contributions would continue to apply. But large sums of money, limited only by the State law and not by the new City Funding Law, for purposes of retiring the outstanding debt; is that right?

MR. STEIN: I believe so. I am not an expert on the law.

MS. CUSHMAN: Did you participate in the negotiation of that law? Can you shed any light on how that provision came to be in the new law, as we know now in the Mayor's original proposal, and it's something that is in the final law, as it was presented for signature?

MR. STEIN: I wasn't intricately involved in the law. The one area that I did involve myself with at the end was raising the limitations. I thought -- I think originally for City Council President was 1.25 as to what a candidate can spend on a public financing, 2.5 for Mayor. I asked that it be raised to three million for Mayor and 1.75 for City Council President.

I always fear somebody coming in with the ability to put in two, three, four million dollars, a Lehrman or Lipper, and not opting into public
financing, and then the other person not being able to compete. So, that was really the area I was involved in.

Otherwise, I really wasn't particularly involved in the drafting of the law.

MS. CUSHMAN: Is it fair to say you are the principal beneficiary of the provision? Do you know whether anyone other than yourself benefits from this provision of the law?

MR. STEIN: I really don't know.

MS. CUSHMAN: Doesn't it appear inconsistent with the other provisions of the law?

MR. STEIN: It allowed people to retire past debts by still responding to the State limit. I can't say I am unhappy with it, but I was not -- I did not -- I did not lobby for it.

MS. CUSHMAN: Let's turn to the Goodman Amendment, if you would.

The Goodman Amendment is a State law which was passed the end of 1986, and which attempts to restrict campaign contributions by people who have matters before the Board of Estimate.

At the time the Goodman Amendment was put into place or was enacted, was it possible, as
an administrative matter, for your Campaign Committee to monitor or anyone, really, to monitor who had business before the Board of Estimate and who did not?

MR. STEIN: I think that the intention of the Goodman bill is a good one, but the problem is it's somewhat of an administrative nightmare. It's very difficult to monitor, in terms of time, six months before, a year after, people getting contributions, and you have to get your office involved, you have to keep lists.

I always think laws are better when they're clear. If I had my druthers, I would say we should have a law passed by the State which says that nobody can give more than three, $4,000 -- $3,000 to anybody, anybody being -- corporations can only give three, and with very full disclosure, because I think that when you have a law that sets up these specific limitations, it's very difficult, and we found it's very difficult to comply with it, because you got -- suppose somebody contributes, and they didn't know they were going to do business with the Board, and then they do business with the Board.
It's intentions are good, but it's hard to administer. I think a law that gets too fussy in terms of setting six months here, a year here, are difficult. I would prefer, in this whole issue of campaign financing, to just say, $3,000 contributions for any individual, for corporations, full disclosure, and do it cleanly like that. I think that would go a long way to making the system simpler and dealing with the whole issue. (Continued on next page.)
MS. CUSHMAN: How has your fundraising effort or your Campaign Committee gone about trying to develop procedures to comply with the law?

MR. STEIN: Well, John can tell you, because he's monitoring it, but we have to keep the lists in terms of who contributes, and we -- we don't -- when we get a contribution, we have to look and see whether the person had done business in the time period or not, and there are problems with it. I mean, there are problems administratively with it, and I think everybody is still grappling with it.

If you have a specific question about it, John can answer.

MS. CUSHMAN: It's our understanding of the procedures he uses that he has a computer at home, and in that computer he has the contributions that have been received up until that time, and when the Board of Estimate provides the lists, the forms on which people have listed who they are and what their matters are before the Board, the Forms 333, as they're
called, he takes them and, himself, reviews them to see whether in the past six months anybody has made any contribution who is appearing now before the Board. He relies on his recollection in terms of inspecting that twelve months after the matter is on. That, that aspect of it is not computerized or otherwise formally controlled.

MR. STEIN: As I say, it's difficult, and I also will watch out the best I can. If I have any questions about whether people do business with the City, generally, to see whether they fall in the specific limitations, and we do our best to comply with this.

As I said before, the intention of the law is good, but it's somewhat of an administrative nightmare.

MS. CUSHMAN: I believe that in response to a Commission inquiry, you returned a letter to the Commission, which is, I believe, Exhibit 5 in that book, in which you said that your success in being able to accomplish that is reflected by the fact that you have not found it necessary to refund any contributions.
In reviewing the various filings and the matters that are before the Board of Estimate, we've isolated only two situations that do involve your campaign, but which appear in some ways to present problems of enforcement under the Goodman Amendment.

One of them there is laid out in the exhibit book as Exhibits 6, 7, 8, 9, 10, 11 and 12. I'll just briefly summarize.

One of them involves Brown & Wood, which was retained as corporate bond counsel by the City, and during the period aggregating six months before to twelve months after that point, gave your Campaign Committee $4,000. Now, I understand that with the -- $6,000, I am sorry. With the Brown & Wood contribution, we have the question of whether partnerships and how partnerships should allocate their contributions, but there is another, Sherwood Associates, which on its 333 disclosure form stated that Jeffrey Katz was affiliated with that company, and it received a special permit on a particular date and within a period of time before and after, primarily after that date, gave money to your campaign in the
total amount of $4,000, which would violate the
Goodman Amendment.

Is it fair to say that this kind of re-
currence reflects the nightmare that you've
just been talking about in terms of record-
keeping and controlling this kind of situation?

MR. STEIN: I believe it was you, Ms.
Cushman -- you told my office about this on
Friday, and we will look into it, and, certainly,
if we have not lived up to the Goodman Amendment,
we certainly will return the contribution.

I think it does -- I think it is an adminis-
trative nightmare. I think mistakes are going to
be made, certainly unintentionally in this case,
and that's why I think the law, it has to be
changed in some way so as to make it easier to
administer. It's very difficult. Mistakes, I'm
sure, are going to be made, because it's just a
very difficult law the way it's written now.

MS. CUSHMAN: We don't mean to suggest in
any way that your vote or the vote of your
representative on the Board of Estimate in
connection with these matters was influenced
by these campaign contributions in these amounts.
I'd like to turn, finally, to the matter of the Board of Estimate's own monitoring and its own record-keeping in terms of complying with this law and other laws which are designed to prevent both the appearance and the reality of campaign contributions being viewed and used in order to buy votes or favor or influence in some way.

From time to time, does your staff have occasion to go to the Board of Estimate and try to track down the disposition of a matter or the records pertaining to a matter, or do you maintain all of those things in your own office?

MR. STEIN: I think Vickie could answer that.

MS. STREITFELD: It's both. We maintain our own records and utilize records of the Board of Estimate.

MS. CUSHMAN: So, you're aware that, for example, it would not be possible for you to go to the Board of Estimate and say, "I have these ten campaign contributors, and I would like to find out if they've had any matters before the
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Board of Estimate within a certain period of time?", or, "Has Brown & Wood had contracts with the City or had dealings with the Board of Estimate within the last four years?", or something like that?

They don't simply keep their records that way?

MS. STREITFELD: The records on the disposition of the items, they're clear, they do that.

Now, on the other stuff --

MR. HIGGINS: That's correct, there was essentially no way to backtrack for the one year period, short of going through every 333 form for every item submitted to the Board in that time.

MS. CUSHMAN: Or, if you want to find out the progress of an item on the calendar, you have to go from calendar number to calendar number, date to date, and in many cases dispositions are reflected in the clerk's handwritten notes, in the margins of their copies of the calendars, and you have to know who to talk to and what particular aspects of the decision that clerk or that person is involved in.
with; isn't that right?

MS. STREITFELD: The disposition of the items are easy to find out.

MS. CUSHMAN: But the evolution of the disposition is not easy to find out?

MS. STREITFELD: No.

MS. CUSHMAN: There is a budget request on the floor, shall we say.

Are you supporting the appropriation of substantial amounts of money to the Board of Estimate to improve its record keeping in that regard?

MR. STEIN: Yes. I think the Board of Estimate has great responsibility. It votes on land use, it votes on budget, it votes on disposition of contracts, and it should be professionalized, and I've advocated increased facilities and staff to do that in a more professional way.

MS. CUSHMAN: Isn't it fair to say that it will require a substantial amount of resources and energy and thought to bring the record keeping of the Board of Estimate up to a level where the public can readily have access to
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information about its decisions?

MR. STEIN: It requires a commitment, there's no way about it, and the commitment means money, and it means energy, and it means specific plans to do that, and an agenda.

MS. CUSHMAN: Mr. Chairman, I have no further questions.

THE CHAIRMAN: Thank you very much.

Mr. Stein, you indicated in your response that at the present time your outstanding debt from prior campaigns may aggregate the area of $150,000. Assume that to be the fact.

What steps do you contemplate taking at this point with reference to eliminating that debt altogether?

MR. STEIN: Well, to raise money, Mr. Chairman, have fundraising events, and to pay it off no later than Thanksgiving time or before that, and then go into 1989.

THE CHAIRMAN: Of course, in 1989 the whole area of campaign debts will be subject, for those who accept public funding in the City, to a new set of rules that would limit loans to the provisions with reference to other campaign gifts.
Loans would be treated eventually with much stricter limits; isn't that so?

MR. STEIN: That's correct.

THE CHAIRMAN: In the meantime, while you're dealing with eliminating this debt, what precautions do you contemplate taking with respect to government decisions that involve you with respect to those to whom you owe a debt?

MR. STEIN: Let me just say one thing, Mr. Chairman: Whether it's these people we are talking about or anybody else who has ever contributed to me, I base my decision based on -- and I've had a twenty year record to prove it -- based on what's right, and what's good for the community, and what's good for the City.

Whether somebody gives me $50,000 or $5,000 or $8,000, it really doesn't matter. I've voted against people who have given me substantial contributions, and I've voted for people who have given me substantial contributions, and there's only one common thread to it, and that's what is the right thing to
do, and what's best for the community, and what's best for the City.

So, whether it's these people or whether it's someone else, it's irrelevant. I just -- in the sense that my decisions will be based on the merits, and that's how we approach our work at the Board of Estimate, and I am very, very proud of my record. I think I have an excellent record, and I think my votes are based on the merits and will continue to be.

THE CHAIRMAN: There's certainly no suggestion here to the contrary, but there is a difference between somebody who has made a campaign contribution and someone who, at the time of the government decision, the officer holder is in debt to.

Wouldn't you agree with me, there is at least the difference of perception?

MR. STEIN: I'm sorry?

THE CHAIRMAN: I'm just wondering, from a good government principle, should the public officer holder who is in debt to a party that's coming before that government official in connection with a decision remove him or herself from
that kind of situation of passing on a matter
that involves someone to whom you owe a debt?

MR. STEIN: Well, I am not sure -- first
of all, I don't think that integrity and good
government can be legislated. I think -- are
you saying that anybody who has sort of -- has
a loan, I should recuse myself from the vote?

Well, I mean, that's a point of view, and
it's a worthy one. I don't know if anybody --
if there's an outstanding debt that would fall
into that category. I'm not sure. But, as I
said before, my -- you know, the difference be-
tween someone giving a contribution, a large
contribution, and someone who has a loan out,
anyone could argue -- one could have the posi-
tion, well, if someone raised and gave the
campaign $150,000, that would be a person who
couldn't be objective in that case. I don't
know if that's different, let's say, from someone
who has an outstanding loan of twenty-five or
50,000.

I think you have to make the decision based
on what you know to be the right thing. I think
that you operate within a system that's correct
and legal, and, as I said before, I voted the
Millstein brothers, probably my biggest con-
tributors, and I voted against their two most
important items, 42nd Street and the project
downtown, American Express, which is -- their
still suing the City, and there's millions in
legal fees, because they're so angry at it.

Other people, as well. The Cohen brothers,
where I set new zoning law, 805 Third Avenue,
and there are people who have met before the
Board of Estimate, who I have voted for their
projects. I do it based on the merits, and I
will continue to do so.

I certainly will take your advice, because
of the respect I have for you.

THE CHAIRMAN: I'm dealing in a hypothetical
situation. You're dealing from the standpoint of
a standard of generating even greater confidence
in government, that the public official who is
in debt to someone else, who is coming before
that public official for a government approval
of action -- confidence in government, as I see
it, would require that public official to recuse
himself from that particular matter for no other
reason than to eliminate the appearances and questions, because someone that one is in debt to has remedies to collect the debt, namely, there may be legal remedies that one could pursue to collect a debt from someone.

At the same time, if you are seeking assistance or approval from government, perhaps you're going to be reluctant to take the legal remedies you otherwise would take, because you want to be the beneficiary of government decision.

So, removing those kinds of issues and appearances -- it does seem to me useful to erect protection so as to avoid questions like the ones that I've raised and the kind of comment that one would read in the press on this subject.

MR. STEIN: It makes some sense, and I will certainly give it a lot of thought.

THE CHAIRMAN: Commissioner Hynes?

COMMISSIONER HYNES: Mr. Stein, this morning the Mayor told us that he would from henceforth interpret the corporate limitation of $3,000 to include subsidiaries and affiliates, and whether
or not others interpret the law that way, that would be his interpretation and that would be his direction to his campaign, to limit the corporate contributions to $3,000 and not take additional contributions from subsidiaries or affiliates of that corporation.

I'm wondering if you have a view on that, and whether you would be prepared to make the same commitment?

MR. STEIN: Ms. Hynes, I think that the Commission should address itself -- and I know I, and I believe the City and State listen to this Commission, use it in many ways as a guide post to what campaign reform should be about. I would recommend that you make a recommendation, which I would support, to the City Council to amend the present bill to say just that, that is, that any corporation that is controlled by X individual, that the limitation should just be the $3,000.

At this time, I don't believe in setting limitations, myself, that my opponents may not adhere to. But, I certainly would pledge to
see that the City Council moves to amend the bill along those lines. But, I don't believe in setting artificial guidelines for yourself, or that you get into a race and you have one hand tied behind your back. I think it much better to get the law changed, so that's the law, and I'll work towards that end.

THE CHAIRMAN: We'll go left and then right. Now I'll recognize Commissioner Magavern.

COMMISSIONER MAGAVERN: Mr. Stein, you described earlier your approach to fund-raising. I would like to ask you a bit more about that approach, and, specifically, with reference to Mr. Joseph Bernstein.

You've received contributions from him, have you?

MR. STEIN: Yes, sir.

COMMISSIONER MAGAVERN: Do you recall your first meeting with him, personally, on a one to one basis?

MR. STEIN: I really don't, no.

COMMISSIONER MAGAVERN: In his testimony earlier this year, he testified that he received a telephone call from you, and that you
then arranged to have lunch with him in the Oak Room of the Plaza Hotel.

Do you recall that meeting?

MR. STEIN: Well, actually I did not recall it, but I, in preparation for the hearing, read through the past transcripts, and when I read about it, I did remember the luncheon.

COMMISSIONER MAGAVERN: And was that meeting for the purpose of at least laying the foundation for a request to him for a contribution?

MR. STEIN: As I read in his testimony, I believe he did not -- I believe the way I interpreted his testimony, he said I did not ask him for a contribution at the lunch. I don't recall specifically that that was the intention, but it would make sense.

COMMISSIONER MAGAVERN: Was your meeting with him pursuant to your general approach to fundraising?

MR. STEIN: Well, I would say -- I would say that it is, in the sense that I believe you develop personal relationships with people,
and that goes as much for people who are some
of my biggest contributors, people like the
Ron Pearlmans and the Ed Downes, who raise a
lot of money for me, as much as anybody else,
the John Coogneys, who do not do business
with the City, and as well as people who do.

I think that people tend to respond to
human dynamics more than anything else, and
if they know you and like you -- and I think
there's more of a chance that they do want to
help you than not, and I think that the human
dynamics has more to do with fundraising than
anything else.

COMMISSIONER MAGAVERN: Then, I take it,
that your meeting with him was for the purpose
of establishing a personal relationship with
him that would broaden your fundraising net-
work; is that right?

MR. STEIN: As I said, I don't remember
specifically, but it makes sense to me.

COMMISSIONER MAGAVERN: Can you tell us
what prior relationship you had with Mr.
Bernstein prior to that approach?

MR. STEIN: I don't remember.
COMMISSIONER MAGAVERN: You never knew him personally at all, did you?

MR. STEIN: I'm sure I met him around at functions and cocktail parties. I have a vague recollection of meeting him over the years, but I did not really know him.

COMMISSIONER MAGAVERN: Did you know that he was a person who had matters from time to time before the Board of Estimate?

MR. STEIN: I suppose I did.

COMMISSIONER MAGAVERN: And did you subsequently, within a reasonably short time after that meeting -- do you know if your campaign fundraisers approached him for a contribution?

MR. STEIN: I don't know. I mean, we have -- we had over a dozen fundraisers during that period of time, around the election time, and we sent them a lot of invitations. Whether a fellow like that would respond to fundraising solicitations, whether he would have given through someone else, I just don't know. I honestly don't know the specific circumstances of how he came to give during that campaign.

COMMISSIONER MAGAVERN: Do you think that
someone in Mr. Bernstein's position, on receiving that invitation, having that meeting with you and then receiving a solicitation for a contribution, might reasonably feel that things will go better for his business if he did not refuse that solicitation?

MR. STEIN: I can't answer that. I'm -- I think you have to ask Mr. Bernstein about that.

I can only tell you, once again, that I have voted against people like the Helmsleys and the Cohen brothers and the Millsteins, who are some of my biggest contributors, when they have given me large sums of money, and I have voted for some people who have given me large sums of money. My only criteria is based on the merits. I cannot get into their head and tell you what they're thinking. You have to ask them.

COMMISSIONER MAGAVERN: You're dealing with them on a person to person basis, and you're forming judgments about what motivates them. You're developing a personal relationship with them; right?
MR. STEIN: I just think that if people like you, they're always more likely to be open than if they dislike you. If they have a sense of you as a human being, they're more likely to be helpful to you than not, and this is for people who don't do business with the City, who are some of my biggest contributors.

COMMISSIONER MAGAVERN: Would it surprise you if someone like Mr. Bernstein felt that perhaps he ought to make a contribution out of fear that, if he did not, things might not go as well for him on some future decision? Would that surprise you?

MR. STEIN: Well, it would be a wrong assumption.

COMMISSIONER MAGAVERN: Well, my question isn't whether it would be wrong, it's whether it would surprise you.

MR. STEIN: Sir, I'm not going to characterize what someone else thinks or doesn't think.

COMMISSIONER MAGAVERN: You have a new opinion on what people who are requested to make contributions who have business before the Board
of Estimate might think about that, and whether it might affect their business judgment?

MR. STEIN: I think that people give money for a whole variety of reasons, and in this town people give a lot of money. A lot of the people who give to political campaigns are people who give ten and a hundred times more to the museums, to the hospitals. They give money for civic purposes, for political purposes. Some of the people give $50,000 contribution or $20,000 contribution to a political campaign, and give $10,000,000 to a hospital. These are people who generally are involved in the workings of New York City on a variety of levels.

Everybody comes with a different set of perceptions and a different set of understandings. The fact is, that there are people who do business with the Board of Estimate, I believe, who just don't give contributions, because they just don't want to be bothered with it, and they think it will hurt them more than help them.

Some people do give contributions. I think everyone has their own perception, and I think
you can't generalize, and I'm not going to.

COMMISSIONER MAGAVERN: You do think some people make contributions out of purely charitable motives?

MR. STEIN: I won't say charitable motives, and I'm not going to say altruistic motives.

I think that people in this town have a big stake. Let's say real estate developers. They have billions and billions and billions of dollars worth of real estate. They can't move their real estate out of New York, like IBM could move out of New York. They are here, and I'm not saying they give out of sort of an altruistic or charitable motive necessarily, but they have an investment in seeing that New York is not rue irresponsibly. If New York has real economic problems and the business climate is not good, and businesses move out, and there's problems in New York, New York is very badly mismanaged, it's going to hurt their investment. So, it's not necessarily altruism, but I think they have an investment in New York being run well, and they may have a whole other different set of

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perceptions, but I won't answer for them.

COMMISSIONER MAGAVERN: You've given us some reasons for giving.

My question is: Do you think in some cases their reasons are fear of the consequences of not giving, specifically, the fear of displeasure on the part of the people who hold discretionary authority over their business projects?

MR. STEIN: Sir, you really should ask them. I'm not going to characterize, you know, why people give. I think it's a whole variety of purposes.

COMMISSIONER MAGAVERN: Mr. Stein, I will point out to you that you have given some reasons, you've characterized their motives for some types of giving by people. You're refusing to do so when I ask you specifically --

MR. STEIN: That could be one motivation. There's no -- I think with everybody, you're dealing with psychology. There's a whole list of different reasons.

COMMISSIONER MAGAVERN: Couldn't we go further and say that in some cases it probably is

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MR. STEIN: We're playing games. I can't say it could be, it could not be. I just don't know. I think it depends on individuals. With some people, it may be why, with others it may not be.

COMMISSIONER MAGAVERN: Let's turn to the question of guarantees, Mr. Stein. Did you read Mr. Zeckendorf's testimony in preparation for this?

MR. STEIN: Yes. I read Mr. Zeckendorf's testimony.

MR. STEIN: I read Mr. Zeckendorf's testimony. Mr. Zeckendorf, when the bank called him, called me that day or in that period of time, the day after, and asked me --

Mr. Zeckendorf told me that the bank wanted to be paid. I told the campaign that the bank wanted to be paid, I would have right away.

If it wasn't in our campaign funds at the time, the campaign would pay it back, I would have right away.

COMMISSIONER MAGAVERN: Do you think it would be reasonable from his perspective for him to think that, as a businessman, it would not be prudent for him to insist upon repayment of the money he paid pursuant to the guarantee?
time, I would have seen we raised it and paid it back.

Anybody who called and said specifically the bank called them, and said they wanted to be repaid, they were repaid.

COMMISSIONER MAGAVERN: Do you understand why he might have been reluctant to do so, for business reasons?

MR. STEIN: I read Mr. Zeckendorf's testimony, and he said what he said. That was his perception.

You know, I must say, Mr. Zeckendorf is no shrinking violent, none of these fellows are, and if he picked up the phone and said, "Look, Andrew, I want to be -- I want this to be repaid," it would have been repaid with absolutely not problem.

Anybody who wanted -- whose specifically asked, when they were called by the bank, to have the money repaid, were repaid.

COMMISSIONER MAGAVERN: My last question is: Doesn't the fact that Mr. Zeckendorf is not a shrinking violet, and yet he testified he was fearful of insisting upon repayment,
COMMISSIONER EMERY: Mr. Rubenstein is a fundraiser, among other things, a public relations person, a lobbyist, but he's also a fundraiser, is he not?

MR. STEIN: Mr. Rubenstein is a public relations person, and he never played a major, significant role in fundraising for me, but he does from time to time raise some funds for political campaigns, that's correct.

COMMISSIONER EMERY: Now, at the time he was representing Mr. Bernstein. You know that to be the case?

MR. STEIN: Yes, I do.

COMMISSIONER EMERY: Is it fair to say that at the time you had lunch with Mr. Bernstein, that you knew that Mr. Rubenstein was representing Mr. Bernstein in all likelihood?

MR. STEIN: Yes, it's certainly -- I don't remember specifically, but, in all likelihood, yes, I would say it's fair.

COMMISSIONER EMERY: Usually Mr. Rubenstein represents people who want good publicity and who want to be portrayed well in the community and who need lobbying, because they need certain things
from the Board of Estimate and from the various people who can grant them discretionary benefits; isn't that true?

Is there something wrong with that statement?

MR. STEIN: No, I think it's a fair statement.

COMMISSIONER EMERY: So, you must have known, just by virtue of the fact that Mr. Bernstein wanted to have lunch with you, that he wanted something from you, he wanted something from you as a City Council President? You must have suspected he wanted something from you?

MR. STEIN: Well, in terms of Howard Rubenstein, Howard Rubenstein has never played -- has played a very, very small, very small role in fundraising in my campaign. He did represent Mr. Bernstein. I remember that. I don't even remember what the issues were.

But if you're saying that when I went to lunch with Mr. Bernstein, did I know he wanted something from me, you know, I just don't remember. I mean, obviously I knew that he -- he was in the milieu of doing business with
the City, but I don't recall even what the
issues were at the time or what the situa-
tion was at the time.

COMMISSIONER EMERY: Putting aside what
the --

MR. STEIN: I don't even know what period
of time the lunch took place, if it was before,
or after, or in between, or a long time after,
or a long time before.

COMMISSIONER EMERY: What I'm asking you is:
When you went to lunch, you must have had or you
must have believed he wanted to be in your good
graces. Is that fair to say?

You have discretionary power on the Board
of Estimate, among other places, and he wanted
to be in your good graces, as a person doing
business with the City?

MR. STEIN: I mean, he didn't want to be
in my bad graces. It wouldn't make sense.

Again, you know, every individual has a
different perception, and I'm sure he didn't
want to make an enemy of me, but I don't know
what was in his head.

COMMISSIONER EMERY: I guess then the question
is: After that lunch, at some point, you asked him for a campaign contribution. It was solicited of him?

MR. STEIN: I don't know that to be a fact. I mean, I know that at some point he gave to my campaign. I simply don't recall soliciting a campaign contribution from him.

As I said, we had a dozen fundraisers during that time. Maybe he responded to the fundraisers. But I have no recollection of ever asking Bernstein for money directly. Maybe I did, but I don't remember it.

COMMISSIONER EMERY: I guess here my point --

MR. STEIN: I know your point.

COMMISSIONER EMERY: We can cut through it. On the one hand, you have somebody coming to have lunch with you who was doing business with the City, and presumably wants to be in your good graces or at least not in your bad graces.

On the other hand, you have described here in some detail, in the very beginning of your statement, that this business of being a politician in New York City is a very competitive business, where somebody can go out and raise millions of
dollars and has a war chest of $5,000,000, in the case of your Congressional race, where it's a very tough campaign and you need money to get on television. So, you're another person coming to that lunch with very specific needs. You need money to run your future campaign, to maintain your position as a viable candidate in New York City politics.

Now, putting all propriety questions aside about quid pro quo, isn't it reasonable for us to assume and for the public to assume that people are meeting to mutually benefit one another, and the way they mutually benefit each other, at least from appearances, is, on the one hand, one contributes, and on the other hand the other provides discretionary benefits.

If you're at all cynical, you have to believe that; right?

MR. STEIN: Mr. Emery, I base my decision on the merits of the issue, and if I have one lunch with somebody or ten lunches with somebody --

COMMISSIONER EMERY: I concede that.

MR. STEIN: -- it doesn't matter.
There are people who have raised a lot of money for me, like a Helmsley or like a Millstein or others, that I voted against, and, you know, you're dealing in a real world where it's very hard to put sort of a Chinese wall up.

The fact is that the public has to make a distinction and a judgment.

Mr. Lipper spent over $2,000,000 on television, running ads, trying to portray the kind of thing that you just mentioned as something wrong.

You know, Andrew Stein did this, that and the other thing. I won by 26 percent. But that isn't even the issue.

The issue, I believe, is that you can't legislate integrity. You can change and improve the law, which is what you're doing now, and I think that it's a very positive thing, but the fact is that I have a good record. I don't think anybody has been more of a tenant's advocate.

You know, I'll give you a little bit of history. The most important piece of legislation
affecting landlords in the last twenty years
was a vacancy decontrol bill that was passed
by Governor Rockefeller in the Republican
Legislature in the early 1970's. It was my
Commission that was able to get that law changed.

Before I did the nursing home investigation,
it was that Commission that was able to change
that law, and if we didn't change the law there
would be no more rent control and stabilization.

Just in the City Council six months ago,
I got a piece of legislation passed which raised
the fines five times, from twenty-five to one
hundred twenty-five a day for landlords who have
outstanding rent impairing violations, and my
vote in the Board of Estimate -- sometimes it's
been for developers, sometimes against developers,
as I have said, and I believe it's always on the
merits.

COMMISSIONER EMERY: I concede it. We have
no evidence whatsoever, I don't think anybody on
this Commission --

MR. STEIN: In terms of perception -- I think
that's what you're referring to -- again, when you
deal with perception, you're dealing with any
individual or set of individuals' perceptions, and different people will look at different things a different way.

I do think that what this Commission is doing is very beneficial, and I do think that lowering the limitations is an excellent thing to do.

The public, in terms of perception, frankly, is probably very upset about spending $28,000,000 of taxpayers' money on public financing. I think they're very angry about not funding drug programs, and police, and fire and other programs that they -- but that's maybe their perception. Maybe they're wrong.

The thing is that I think that what is happening is very healthy. The work the Commission is doing, the focus on this, is very good, and I think having lower limitations is a very, very good thing, and more disclosure is a good thing, and I think it's all beneficial.

I might add that whatever has come out and will come out in terms of changes in the law, if we go back five years from now and look
at it, we're going to see a whole set of different problems cropping up, and there's no perfect answer.

I mean, after Watergate you had the Watergate Reforms. That created, in my opinion, more problems in some ways than the old law did, because it gave the real specialists the ability to go in and create all the PAC's, and I think you're hearing testimony now -- Mondale testified and others that the $1,000 limitation is too low. Mondale said it should be raised to $5,000.

But, the PAC's have more influence and special interests in many ways now than before the reform. So, it's a complicated issue.

COMMISSIONER EMERY: Let me ask you directly -- and I want to be clear, I am not saying in any way, shape or form that any campaign contribution has, in fact, influenced anything you've done.

But, we were talking about practices that our Commission has to make recommendations about, practices which have to do with the view of the integrity of government. What I am suggesting to you is, on occasion you have taken loans to finance your campaigns. I take it that has
happened on a number of occasions?

MR. STEIN: That's correct.

COMMISSIONER EMERY: On other occasions you have personally and your family has personally loaned your campaign money in order to finance your campaign?

MR. STEIN: That's correct.

COMMISSIONER EMERY: And on some of the occasions where you have personally financed your campaign by loaning it money, when you got contributions, you paid yourself back from those contributions; isn't that the case?

MR. STEIN: That's correct.

COMMISSIONER EMERY: And on some of those occasions, the contributions came in from people, on some of those occasions from people who you voted for on the Board of Estimate. It happened on occasions; isn't that so?

Now, I'm not suggesting there's any relationship between the two, but it happened; isn't that so?

MR. STEIN: I believe so.

COMMISSIONER EMERY: That's a very close nexus from an appearance point of view, isn't it,
where you put in your pocket a contribution
that is a repayment of a loan to your campaign
right after you have both voted on a Board of
Estimate matter that benefited the person con-
tributing to your campaign.

From a perception point of view, don't you
think that's a grave problem?

MR. STEIN: Mr. Emery, politics has not been
a profitable business for me, profitable profess-
ion. I would say over the last ten years I'm out
of pocket over a million dollars. My wife thinks
I'm crazy.

In the particular campaign in 1981, I came
out approximately between twenty-five, twenty-six,
$27,000 on the short end, that I lost on that
campaign.

Again, I can only speak for the reality, and
the reality is that I have a good record. I'm
proud of my record. I've never been influenced
by anything but what was correct and the merits
of the issue.

If you or others feel there's a perception
problem, I can understand that, I can understand
it, but I can only tell you what the reality is,
and that's how I vote.

COMMISSIONER EMERY: One more point, and then I'll leave it to others.

We've heard how this new law is going into effect, went into effect on February 29th, and that it limits campaign contributions to $3,000, but there's a very narrow exception allowing for unlimited contributions to repay outstanding loans.

I believe it's the case -- and I stand corrected if I'm wrong -- but I believe it's the case that you have more outstanding loans than any other official in the City, and that you're going to be the chief beneficiary of that loophole in the law, and while I understand also that there's a rationale that when those loans were made to you, you didn't have any limits on you, and then it might be considered a retroactive application to you -- but what I am asking you is: if you will consider, hopefully, even make a statement here today, that because fundraising is now under -- is legislated here in New York City to have limits of $3,000, that you will limit yourself to $3,000 per contribution in raising money to repay those loans?
Stein

I mean, that, it seems to me, is within the spirit of the law and the approach of the law, and it's closing a loophole that you, yourself, obviously don't think should exit.

MR. STEIN: My position is that I don't think that a politician should make a statement and interpret the law. I think they should follow the law. I'm not going to operate under different rules than anybody else operates. I will operate under the rules as they exist.

But, if the law -- the law allows me from past campaigns to raise money a certain way, I'm not going to prohibit myself. I will certainly -- and I think the reforms have been beneficial. I certainly will operate -- in many ways the new laws help me, because I think they help an incumbent who is well known and has a perception among the people.

In many ways the new Public Financing Law and limitations help an incumbent, but I'm not going to restrict myself if the law says I don't have to, because there's no reason for it.

COMMISSIONER EMERY: Let me ask you this one final question, and that is: If you find out that
that law applies only to you, and it doesn't apply to anyone else, nobody is going to challenge you, nobody else is in government, would you then limit yourself to the $3,000 limit?

MR. STEIN: I don't see any reason for limiting myself and interpreting of the law as changed. There's no reason for me to make a special interpretation of the law.

(Continued on next page.)
THE CHAIRMAN: I think, Mr. Stein, he said in response to my question, it is your intention to try to eliminate whatever your outstanding debt is between now and November, if that's possible.

MR. STEIN: Yes.

THE CHAIRMAN: I believe you said that.

THE WITNESS: I did also say that. You made a suggestion, Mr. Chairman, about recusing yourself and people with outstanding loans, and I certainly will consider that.

THE CHAIRMAN: I will recognize Judge Meyer.

COMMISSIONER MEYER: One way to deal with the perception problem would be to prohibit anybody who makes a contribution from dealing with the City. There are some states that do that kind of thing. I think it would be somewhat Draconian and, in any event, at this point, probably a difficult thing to put in place unless we have full public financing.

So, we can put that to one side.

There are, however, other ways of controlling the perception problem, and one of them, which certainly is applicable so far as the judicial campaigns are concerned, is: That while the judicial candidate can appear and perhaps explain
his background, when it gets to the point of fund raising, he moves out and the fund raising is taken care of by a fund raising chairman, and that chairman makes all of the reports to the reporting group, and those reports are never presented to the candidate so that he has no knowledge of who the contributors are.

Do you see that as a feasible way of dealing with the same problem, not only on a judicial level, but on a legislative level?

MR. STEIN: Your Honor, I really don't think it's realistic. I think that maybe it is for judicial races, but I think that, whether it's running for President, where there's a tremendous amount of personal contact, I've seen it myself, where at the caucus list they have a thousand people or hundreds of people committed to raise $100,000 and, as they are saying with the Bush campaign, every campaign I have been involved with, -- I don't think you can separate personalities completely. I just don't think it's realistic.

I think it sounds good, I think it's idealistic situation, but I don't think you can take the human dynamic out of it completely. I don't think it will
work. You can't say that the candidate is not going to have personal relationships with people.

When you're friends with people, your kids are friends with theirs, you have relationships with them. I mean, I just think it's not realistic to be able to do that.

My own personal opinion is, that a clean law which would say that nobody can give more than $3,000, full disclosure, corporations can't give more than $3,000, tighten it up, the corporate limitation, and so forth, that makes sense because you're dealing with human beings, and you had a big federal reform after Watergate.

I think it created as many problems as it solved.

You're not going to have any law that is perfect, and I think what you have to do is, as this Commission is -- as this Commission is ably doing -- is look at the situation and make recommendations to try and avoid any problems.

But, the fact is, to a certain extent, you can't legislate integrity. You can have all the laws in the world. If someone is not going to be an honest public official, all the laws in the
world and changes in the election law, is not going to have any effect on them.

I think that what you're doing is constructive, it's going to help considerably, but I guarantee you, when you look at it in three, four years from now, it's going to create a different set of problems than you have now because we are dealing with an imperfect system, we are dealing with human beings.

THE CHAIRMAN: I'm going to bring the session to a close with a final question from Peter Bienstock.

MR. BIENSTOCK: Mr. Stein, are you committed to accepting public funding in 1989?

MR. STEIN: Yes.

MR. BIENSTOCK: And, therefore, it makes a difference to you, does it not, whether you can pay off your debt in $3,000 bites or $50,000 bites; is that right?

MR. STEIN: Peter, it's easier to do it in $50,000 bites than it is in $3,000 bites.

MR. BIENSTOCK: Is it your testimony here today that no conversations and members of your staff had no conversations, to your knowledge, with members of the City Council concerning that provision in
the law?

MR. STEIN: I don't remember any. I'm not saying that we didn't. I just don't -- I remember the one issue that we -- that I did, and I remember lobbying specifically, was the raising of limitations for the City-wide office, because I thought they were too low, if someone had their own personal money that went into the campaign.

MR. BIENSTOCK: I would like to move briefly to another subject.

Is it your view that it is a legitimate campaign expenditure, expenditure of the campaign committee to make contributions to other candidates?

MR. STEIN: Absolutely.

MR. BIENSTOCK: Are you familiar with whether or not that's a general practice among your colleagues?

MR. STEIN: You know, I just know what the law says, and the law says that if you go to a function for an Assemblyman or a City Councilman, that you're allowed to contribute that from your campaign committee. I don't know what other people do.

MR. BIENSTOCK: You have done that even at a
Stein

time when you're in debt, your campaign committee is in debt?

MR. STEIN: I imagine so, yes.

MR. BIENSTOCK: The final question I have relates to the funding of the Campaign Finance Board.

What is your commitment to voting on that $28 million of funding and for the administration of the Public Finance Law?

MR. STEIN: Well, as you know, we have not resolved our budget yet. We have a very tough situation where the City Council has said they will not pass the Mayor's $150 million in property tax, and the Mayor says, "I've cut the police, I've cut services perhaps to the bone."

Bob Morgenthau is very angry because he requested a million dollars for increased funding for drug addicted children who are victims of drugs. He says two-thirds of child abuse cases in his office take place because of crack. He wants more money for drug-related homicides, and he says we are not pursuing the war on drugs vigorously, all we are doing is talking about it, and he criticized the Mayor.
So you have a lot of pressures on the budget. I certainly think that we should have the money in there. As part of it, I think that -- it's not essential to have it all in this year, necessarily, because you can still do that next year, but I certainly think that we should show that we have a commitment to it and put a substantial amount of money into it, if not all of it.

You do have to understand that while you think public financing is important, there are a lot of people that think that fighting drugs and AIDS is important and helping people is important.

So, there are a lot of pressures, but I certainly think that we have to show that we are committed to this process, and that if we don't fund all of it, we should certainly show enough and accompany it with a statement to say that the remaining money will be available in the future.

MR. BIENSTOCK: I have nothing further, Mr. Chairman.

THE CHAIRMAN: You have been very helpful in responding to our many questions. Is there any additional statement that you care to make regarding the subject of this hearing?
MR. STEIN: No.

THE CHAIRMAN: I want to thank you for your considerable assistance with Staff and the work of this Commission.

MR. STEIN: Thank you.

(Witness excused.)

THE CHAIRMAN: This hearing is now recessed until 1:30.

(Whereupon, at 12:30 o'clock p.m., a luncheon recess was taken.)

AFTERNOON SESSION

(Time noted: 1:35 o'clock p.m.)

THE CHAIRMAN: This hearing is now in session. The Commission calls Harrison Goldin.

Raise your right hand.

HARRISON J. GOLDIN, called as a witness, having been first duly sworn by the Chairman, testified as follows:

THE CHAIRMAN: I would like to return to the format that the Commission used this morning which, essentially, involves questions by one of the Senior Staff of the Commission, Peter Bienstock, and following his questions, the different Commissioners will ask additional questions and,
of course, you'll have an opportunity, if you wish, at the end of the questioning, to make a statement. Thank you for being with us.

MR. GOLDIN: Thank you very much.

THE CHAIRMAN: Peter Bienstock.

MR. BIENSTOCK: Mr. Goldin, I want to ask you questions in three or four different areas, beginning with the question of the implementation of the Goodman Amendment with respect to the management of the Board of Estimate.

I take it that you, as a member who votes, share responsibility with the other City-wide officials and Borough Presidents with regard to the management of the Board of Estimate; is that right?

MR. GOLDIN: Yes, sir.

MR. BIENSTOCK: And do you recall that back in April I wrote a letter to you on behalf of the Commission, which happens to be Exhibit 53 in the book in front of you, if you want to refer to it, and you wrote back to me by letter of May 9th, which follows that, in which you discussed the effort that your office had made to assure compliance with the Goodman Amendment?
Do you recall that, sir?

MR. GOLDIN: Yes, sir.

MR. BIENSTOCK: Now, before I get into the question of Form 333 and computerization of that, I want to ask you some questions, generally, about the record keeping at the Board of Estimate, because it struck us that it is important to be able to determine what actions have been taken at the Board of Estimate, irrespective of whether they are within or without any particular period as it relates to the Goodman Amendment.

For that purpose, I will refer you to Exhibits 36 and 37, and for those, I believe we have blowups that can be displayed in front of you.

Are you aware, sir, that Exhibit 36 is the cover sheet of the last Journal of Proceedings of the Board of Estimate which has been printed and returned from the printer?

MR. GOLDIN: I was not aware of that, but I will accept the inference in your question that it is.

MR. BIENSTOCK: And are you aware of the fact that the printing of the Journal of Proceedings is seven years out of date?
MR. GOLDIN: It appears to be.

MR. BIENSTOCK: For the record, the date stamp of when that reached the Municipal Library -- it is the cover sheet of the Journal of Proceedings for the period January, 1981 through March of 1981, which we have discovered reached the particular library because it had just recently been printed as of April of 1988.

Even more backlogged is the cumulative annual index by which one can determine, alphabetically, who had been before the Board of Estimate, and that's represented by Exhibit 37, and the last printed index of the Journal of Proceedings is dated January through December 31, 1976, at a time when you held the position you hold now, but the Mayor was Abraham Beame.

Were you aware that there has not been a printed index of the Journal of the Board of Estimate in the last eleven or twelve years?

MR. GOLDIN: I had not specifically focused on the formalization of the proceedings in the form that you describe.

MR. BIENSTOCK: Well, let me then refer you, if I might, to Exhibits 41 and 42, and I ask you
if you have seen those.

Mr. Chairman, perhaps it would be appropriate to request whether or not there are members of Mr. Goldin's staff who would be more familiar with the details, as we have with the other witnesses.

MR. GOLDIN: I'm going to answering all the questions myself, Mr. Chairman.

THE CHAIRMAN: All right.

MR. GOLDIN: I think I can be helpful to you, Mr. Bienstock, by telling you that when the Commission very helpfully and appropriately dramatized the shortcomings in this area, I directed my staff, particularly in connection with the City Budget which is now the subject of negotiation for the fiscal year which will start July 1, to seek an appropriation which would remedy these deficiencies.

In fact, the proposed budget, which was promulgated by the Mayor, which is known as the Executive Budget, had no such contemplated appropriation, and at the very first meeting among the principals focusing on the Mayor's Executive Budget, at my direction, one of my representatives raised that point and said that we felt that there should be appropriate funding included in the new budget so
that this problem could be addressed.

MR. BIENSTOCK: And, to your knowledge, are
the documents that are represented by Exhibits 41
and 42, part of the process that ensued thereafter?

MR. GOLDIN: Well, when you say, "part of the
process ensued thereafter," I take it that what you
likely mean is, are the recommendations made by the
Secretary part of what I expected would be funded,
and the answer to that is yes.

From my standpoint, we should be providing
whatever funding is necessary in order to automate
the system, make it convenient for the public, make
it current and timely.

There is, after all, much technology that
would facilitate this process, and it was at my
direction, as I told you a minute ago, that my
representative at the discussions on the budget
in recent weeks and months, urged that the nec-
essary funding be included in the new budget.

MR. BIENSTOCK: I'm going to ask you where
that process stands right this minute.

MR. GOLDIN: I can tell you that.

MR. BIENSTOCK: I want to first refer you to
one sentence in the first page of Exhibit 42 from
Mr. Meekins to the members of the Board of Estimate in which he says, "A decision by Board members on our original proposal for a comprehensive $2 million automated system seems to have been delayed for the present time."

In the attachment to that exhibit, he says the following -- I do want to read just three paragraphs into the record.

THE CHAIRMAN: What exhibit number?

MR. BIENSTOCK: 42. I'm now going to the second page of that exhibit where he says --

THE WITNESS: When you say the second page of the exhibit, you are referring to the attachment?

MR. BIENSTOCK: Right, the first page of the attachment. It says, "Overview," and I'm going to be reading consecutively, and I don't mean to hold you to the precise words, but I do want to read for the record what Mr. Meekins has told the members of the Board of Estimate.

"The current system of maintaining these records is archaic and increasingly in danger of collapse due to a growing backlog."

Moving to the next page --

MR. GOLDIN: Where are you?
THE CHAIRMAN: I can't follow you.

MR. GOLDIN: I can't find that, either, Mr. Bienstock. Could you tell us where you're reading, please?

MR. BIENSTOCK: Exhibit 42 begins with a cover letter.

MR. GOLDIN: Yes.

MR. BIENSTOCK: The first page thereafter, begins with the title "Overview."

MR. GOLDIN: Yes.

MR. BIENSTOCK: The sentence I just read is the second sentence following --

MR. GOLDIN: Yes, I see that.

MR. BIENSTOCK: I'm now skipping to the next page under Roman II, "Historical Perspective," --

MR. GOLDIN: Yes.

MR. BIENSTOCK: -- reading the substance of the first paragraph, --

MR. GOLDIN: Okay.

MR. BIENSTOCK: -- "On line access to information. At present, there is no form of automation available for tracking, filing and preparation of a calendar, calendar digest, journal, resolutions, correspondence, 333 information," which I believe
you and I will agree, has to do with compliance with the Goodman Amendment.

MR. GOLDIN: Yes.

MR. BIENSTOCK: "All procedures are performed manually. These manual systems have been in place for as long as thirty years or more and depend heavily on the experience and accuracy of the key personnel. Even for these personnel, the procedures are time consuming and cumbersome."

Skipping down to the paragraph numbered 3.

"At present, all tracking of submission documents is manually recorded on index cards. These cards must be manually searched for tracking information. It is time consuming both to create and maintain these tracking documents and to retrieve information from them. Backlogs make the process even more inefficient."

Down at the bottom in the paragraph numbered 6 is the statement which we have discussed concerning matters -- that we have discussed concerning how out of date the Journal of Proceedings is.

With that background, Mr. Goldin, I would ask you where we stand today concerning the budget appropriation for automation of the record keeping
systems of the Board of Estimate.

MR. GOLDIN: Well, first I would say to you, Mr. Bienstock, that I think Mr. Meekins is either being diffident or diplomatic, depending on your point of view. The issue goes beyond the processes being time consuming and cumbersome and inefficient.

The real problem is, there's not a convenient and accessible system for the retrieval of information which the public and others who are interested are entitled to.

The status of the matter is, that as soon as you tell me I can leave, I am going to be going down to City Hall where my colleagues will be waiting for me for a meeting which I am going to attend at which these matters are going to be focused on, and for me -- as I told you from the very inception of this process, the inclusion of adequate funding so the Board of Estimate's procedures can be modernized, remains a very high priority.

From my standpoint, there are certain costs of doing business, as I like to put it, in a free and democratic society, and while there may not be a substantial constituency for those costs, responsible public officials have an obligation to
Goldin recognize that they are critical, if the processes are to be discharged sensibly, and to help to educate the public as to their responsibilities, and I regard this as one of those.

MR. BIENSTOCK: Is the budget negotiation now at the $100,000 stage or the $2 million stage, if you know?

MR. GOLDIN: The process does not work in quite that way. I urged, and will continue to urge that full funding be made available, but we are not at a stage at which I can say to you that there are tentative numbers that have yet been introduced. We are still struggling with trying to bring into balance a budget that, in all likelihood, as the Mayor presented it, is not in balance.

That represents an unprecedented situation, in my experience as Controller, has put unusual pressure on the participants in the process to seek to balance the Mayor's budget before we even get to the stage of adjusting numbers and adding expenditures that we think are critical.

MR. BIENSTOCK: Moving with some particularity to the Goodman Amendment, do you agree with the principle underlying the Goodman Amendment, that is,
that those who do business with the government
should not be making large contributions to officials
who are making decisions about that business?

MR. GOLDIN: Well, first, Mr. Bienstock, to
just amplify on a point that is relevant to your
question of me a moment ago.

Some months back, I brought to the Mayor's
attention at a meeting that he and I had on general
subjects, not necessarily touching on this, the
inadequacy of the 333 filings that were being made
by his agencies and urged that attention be paid
to that and that it be recognized that it is
important that that whole process be made relevant
and comply with the law.

Second, my view, consistent with what I said
to you a minute or two ago is one that I have held
for over two decades in public office. It is that
the public needs to be educated to the notion that
it is important that campaigns for public office,
especially high public office, be financed out of
the public treasury. I took that position when I
was a State Senator; I have taken it repeatedly
as the New York City Controller.

I urged on the Sovereign Commission in 1986, that
it make a major initiative, the urging of the public financing of campaigns, and the reason for that is that, in my judgment, there is a deep and dangerous public distrust of the electoral process that engenders cynicism that I regard as destructive to a democratic society arising from the public sense that electoral office is permeated with fund raising and that the entire process is for sale.

To me, the only way to deal with that effectively is to remove private financing of campaigns, save for threshold purposes to establish the bona fides of candidacies, and to move to a system of total public financing of campaigns.

In my judgment, halfway measures suffer from a variety of disadvantages, and we can get into some of those in due course, if you like. But I would favor using this present climate and the present atmosphere of growing concern for all of us to mobilize to try to persuade the Legislature that it should introduce a system of full public financing of campaigns.

MR. BIENSTOCK: We will do that, Mr. Goldin.

We will get into that subject.

For the moment, I want to pursue something
which may strike you as a little more mundane and probably is.

You mentioned something about the adequacy of the Form 333. Can you tell us what you find inadequate about it?

MR. GOLDIN: Well, it's not that the form itself is inadequate, Mr. Bienstock. Apparently, the agencies have not been complying in a timely and sufficient way with the need to file, and it was that that I called to the Mayor's attention.

MR. BIENSTOCK: Would you agree that the form could be improved by, for example, including the warning language or language which summarizes the terms of the Goodman Amendment so that people who are doing business before the Board of Estimate would have some warning about what's prohibited?

MR. GOLDIN: I believe, Mr. Bienstock, that it is always useful to apprise people who depend on and who are governed by statute of what the statute requires, of what the statute provides, as fully as possible.

As to how that should be presented and to what the substance of that should be, in my judgment, it would be useful for us to get the advice of
counsel in that regard, because when we are talking about the interpretation of statutes, I can tell you, as a lawyer, and as a law professor myself, that I always prefer to rely on people who are most conversant with the substance of a particular law.

MR. BIENSTOCK: Has your office done an audit with respect to compliance of the 333 form?

MR. GOLDIN: We have not focused on that matter for the reason that to us, quite frankly, without seeing the compliance by the Mayor's agencies that we felt was warranted, therefore, until the Mayor is able to secure the compliance of agencies as warranted, an audit would not be appropriate or useful.

MR. BIENSTOCK: Turning more to the substance of the Goodman Amendment, is there a reason why a law like the Goodman Amendment, which puts certain limits on contributions by those doing business with the government, should be limited to those doing business before the Board of Estimate?

MR. GOLDIN: Well, as you understand, and as the Corporation Counsel at the time put it so well, the Goodman Law is, to put it colloqually,
a can of worms. It's a very difficult statute to rationalize, to interpret, to make consistent with other provisions of law. When you get into interpretive definitions of what constitutes an applicant, a problem that arises under the Goodman Law, you have great difficulty.

When you get into questions going beyond that, of what constitutes doing business with government, you get into an enormously difficult problem. Clearly, doing business with government is not just a function of an immediate application of whatever nature for an indulgence or otherwise.

There are institutions which do business on an ongoing basis, some of which come to government from time to time, to the Board of Estimate, to Municipal agencies for permits. The question is whether somebody once did business with government, whether somebody who did not do business with government before, has a likelihood of doing business with government in the future.

It seems to me that there are enormous interpretive difficulties in that regard, and that begins to illustrate why it is I believe, although my belief is somewhat global, as I tried to explain,
that the appropriate course is to establish a system of total financing of campaigns.

MR. BIENSTOCK: For the moment, Mr. Goldin, I do want to focus on where we are today and what the compliance issues and problems are.

Isn't there also a range of discretionary decisions which don't come before the Board of Estimate, but which are those types of discretionary decisions that the Goodman Amendment, at least in principle, ought to touch?

Let me give you just one example close to home, perhaps.

My understanding is, that you have the discretionary authority to settle items like construction claims against the City prior to litigation, and our information is, that during the last campaign, you accepted contributions from construction firms to the tune of -- a number of contributions -- to a total tune of $70,000.

Now, because the Board of Estimate is not involved and because each individual contribution may have been under $3,000, the Goodman Amendment is not implicated, but is that consistent with the principle -- as we sit here today, is that
consistent with the principle that those who do
business with the government should not make con-
tributions in connection with or to the people who
make decisions about the business?

MR. GOLDIN: I want to make several points in
response to that, Mr. Bienstock.

The first is, that I think it is important to
understand the process accurately. In fact, the
Controller does not unilaterally settle claims.
Under the City Charter, the Controller concurs or
must approve determinations by the Corporation
Counsel respecting the settlement of claims. So,
it is not a unilateral matter by my office, alone.

The second --

MR. BIENSTOCK: Excuse me. I don't mean to
interrupt. My reference was prior to litigation,
when notice of claim is filed and for thirty days
thereafter, which is the period which, I understand,
is extendable by the Controller, it is my under-
standing, and you would know better, that the
Controller does, in effect, have unilateral authority
to settle those claims.

MR. GOLDIN: I think it would be unusual. I
would want to check this, Mr. Bienstock, to be
certain that I'm not speaking inaccurately. I think it would be unusual for us to exercise that authority in quite that way.

But, second, I would point out to you that I have established a very professional high quality operation of people who have responsibility for the settlement of claims. It is not a matter, in the ordinary course, in which I get involved directly or personally. I establish policy, to be sure. I take responsibility for those decisions, but, in fact, I do have, as I've said to you, a professional operation, people who are skilled in these matters.

As a matter of fact, there was a major article in MANHATTAN LAWYER just the other day, I think it's the current issue. But one of the very distinguished professionals on my staff, who has the prerogative, the discretion to make these settlements, exercises it, and in the ordinary course, exercises those judgments routinely without conferring with me.

But beyond that, I would point out to you, as you know, that the Goodman Law does not prohibit contributions by people who do business with
MR. BIENSTOCK: I understand.

MR. GOLDIN: What it does is simply limit those contributions. Now, I am troubled by that, as I have told you, for a variety of reasons. It seems to me that it is not adequate to say that we are going to permit people to make contributions of $3,000. I think that tends to lull the public into thinking that there has been major reform and, in my judgment, makes it only inevitable that there will be major public disillusionment down the road because, in the way we know from the federal system, this process is almost certain to operate.

MR. BIENSTOCK: Let me ask you another question in this regard, and I want to make reference to Exhibit 48, which I believe we have a blowup of, which we can display in front of you and which is in the book in front of you.

MR. GOLDIN: Yes, sir.

MR. BIENSTOCK: Is it correct that you and the Mayor have joint authority to select a team of underwriters for such issues as the City's General Obligation Bonds?

MR. GOLDIN: Yes.
MR. BIENSTOCK: And Exhibit 48, is it fair to say, is a report of yours announcing a decision which was jointly make by you and the Mayor?

MR. GOLDIN: It is one of the forms of announcement that I used, yes.

MR. BIENSTOCK: And contributions to you or the Mayor by those who stand to benefit from the decisions indicated there, are not covered by the Goodman Amendment because it's not subject to review by the Board of Estimate; correct?

MR. GOLDIN: This decision by the Mayor and me would not, as I understand it, be subject to review by the Board of Estimate. That's correct.

MR. BIENSTOCK: And it is fair to say, I think you will agree, that the decision as to which firms are listed on this document, on what this document depicts, stand to gain substantial financial advantage from that selection?

MR. GOLDIN: Is that a question?

MR. BIENSTOCK: That's right.

MR. GOLDIN: Yes.

MR. BIENSTOCK: I don't know if it has been reported to you, but I want to share with you what the -- on the subject of affiliated corporate
contributions -- what the Mayor testified to this morning, and I want to get your view with respect to the new City Public Funding Law.

The Mayor's position on the new City Public Funding Law is, that it can stand an interpretation by the Campaign Finance Board that the $3,000 corporate limit is a limit which applies to the particular corporation giving the contribution and its affiliates and subsidiaries in the aggregate.

Is that your understanding of the corporate contribution section of the Law?

MR. GOLDIN: I would have the same sense as the Mayor, that the Campaign Finance Board could probably make such an interpretation. Did the Mayor indicate to you whether he had in mind that that would cover PAC's of those corporations?

MR. BIENSTOCK: No, he did not.

MR. GOLDIN: Did he indicate to you whether he had in mind that it would cover contributions by principal officers of those corporations? Did he indicate to you that he had in mind that it would cover contributions by directors of those corporations?

MR. BIENSTOCK: Do you have a view on those
matters?

MR. GOLDIN: My view is that the only way to go is to prohibit private contributions altogether, or at least to prohibit contributions by corporations altogether.

MR. BIENSTOCK: Well, let me ask you, then, what your view is on what your campaign committee ought to be doing today under this current Public Funding Law.

MR. GOLDIN: I think we are going to have to await a decision by the Campaign Finance Board.

As you know, I have had a moratorium on raising campaign funds for some time, precisely because of the enormous ambiguities involved in this area.

The state of the law, in my judgment, remains yet chaotic. I have retained counsel to advise me on these matters, to assist me in analyzing and understanding the law. Counsel has advised me that pending interpretations by the Campaign Finance Board is virtually impossible to give me a definitive interpretation.

It seems to me that once you get into this area, all of those questions that I raised, as well as many others, have to be answered.
MR. BIENSTOCK: Absolutely. Is it your current intention that the moratorium on contributions will continue?

MR. GOLDIN: My moratorium will continue until I'm advised by counsel that the matter has been clarified sufficiently in their mind so that they can give me the kind of guidance that I need to proceed.

MR. BIENSTOCK: With respect to one subject, now, the question of affiliate and subsidiary corporations falling under the corporate contributions law, they have not reached that point?

MR. GOLDIN: I have not asked for a breakdown in various aspects of law. I have asked them that they should, please, advise me on the matter when they feel they are in a position to give me the kind of advice that I need to proceed.

MR. BIENSTOCK: You have accepted, have you not, in the past, campaign contributions from multiple affiliate corporations; is that fair?

MR. GOLDIN: When the law was clear and unambiguous in that regard, of course.

MR. BIENSTOCK: And those included the financial firms on the tombstone depicted in Exhibit 48?
MR. GOLDIN: Some of them, yes.

MR. BIENSTOCK: Because of your answer and the unclear state of the law as far as City-wide public officials are concerned at the moment, I want to skip to another subject rather than harp on affiliate corporations, and that is represented by a pattern that has turned up in our inquiry into your filings, particularly with respect to the financial institutions, and I could focus on a number of them, but for illustration purposes, I want to focus on Bear, Stearns.

Can we have the blowups of Exhibits 49 and 57?

If you would turn, Mr. Goldin, to those exhibits in the book, Exhibit 49 is a filing of your campaign committee for the period July, 1984 to January, 1985, and the blowups that are displayed in front of you relate to contributions received on August 10th, 1984, which begins on the fourth and runs over to the fifth page of that particular filing.

MR. GOLDIN: Yes, sir.

MR. BIENSTOCK: Skipping the first name, which is Stuart Zerner, August 10th, 1984 --

MR. GOLDIN: That's the fourth entry.
MR. BIENSTOCK: Right -- and beginning at George Sainer and continuing down that page and on the next page, looking at those names, do you know, as you sit here today, who those people are?

MR. GOLDIN: Well, I recognize a fair number of the names directly, myself. Some of them are people I've known for many years.

MR. BIENSTOCK: And which ones do you recognize, if you could just go through them?

MR. GOLDIN: Michael Taropol I've known for many years. Glen Tobias I've known for many years. Paul Hallingby, Jr., I'm not sure if that's the Paul Hallingby I know, because I don't know him as Jr.

MR. BIENSTOCK: Do you know who they are affiliated with?

MR. GOLDIN: Judging from the names, they are people I recognize and have known for many years. I could read you ones I've known for many years. They are partners at Bear, Stearns.

MR. BIENSTOCK: It would not surprise you if I told you every name from George Sainer, from the end of that page, skipping the first name on the next page, which you have not been able to confirm
and, in fairness, therefore, we will not include, and going down to the next five names, ending with Paul Weissman --

MR. GOLDIN: Yes, sir.

MR. BIENSTOCK: -- that depicts twenty-three $1,000 contributions?

MR. GOLDIN: Yes.

MR. BIENSTOCK: From individuals from New York, individuals from San Francisco, California, Atlanta, Georgia, and the like, all of whom are executives at Bear, Stearns, all of whom came, according to this filing, to make a $1,000 contribution on the same date.

Going to Exhibit 57, which is your filing for the period January 15, 1985 to July 15, 1985, beginning on the fifth page of that exhibit --

MR. GOLDIN: The fifth page.

MR. BIENSTOCK: -- which is dated February 8, 1985, beginning with the name Alan Greenberg, continuing down through the bottom of that page, including Fred Kayne from Beverly Hills, California; continuing on the next page at the top to Thomas O'Connor of Darien, Connecticut.

I can present to you that our investigators
have confirmed, with some difficulty, I should say, that that represents on the same day, twenty-five $1,000 contributions in the year 1985, all, again, from executives of Bear, Stearns.

My question to you is: How did this come about?

MR. GOLDIN: Well, as I've indicated to you, Mr. Bienstock, I know a fair number of those people myself, have known them for many years and, as I think you probably know, a large number of these people are people with whom I went to school, college and law school, who were undergraduate with me at Princeton and whom I went to Yale Law School with and ended up on Wall Street.

I spent a fair number of years myself in the practice of law on Wall Street. I was at Davis Polk for seven or eight years. I was in the finance business. I have a very wide circle of friends and acquaintances whom I carry with me from those prior incarnations who are in the finance business, and when I raise money for political campaigns, I go to the people whom I know, with whom I've had associations, and ask if they can help either by contributing themselves or perhaps by asking others to contribute, or both.
MR. BIENSTOCK: My question is not so much how did it come that some of these people contributed. My question is: How did it come about that they happened to contribute the same amount of money totally, $25,000 roughly, each year, on the same day each year?

MR. GOLDIN: Well, as I've indicated to you, I've indicated to you that it was my practice and is my practice, when I raise funds for a political campaign, to go to people whom I know and ask them if they would be willing to contribute, if they know others who might be willing to contribute, if they could ask them, and I would assume that, for the sake of convenience, that what somebody in that situation does is try to dispose of the matter at one fell swoop, and so it would not surprise me, although I don't know specifically, that they would do what soliciting they do within a very short period of time.

MR. BIENSTOCK: Do you or do you not recall any conversation with any one of these people concerning collecting and delivering contributions en masse?

MR. GOLDIN: Yes, I believe I had a conversation
with Alan Greenberg at one point.

MR. BIENSTOCK: Now, one cannot tell, can one, merely from looking at this filing, what the common association of these various people is?

MR. GOLDIN: No, I would say that the form is deficient in not reporting, as I understand the federal form does, that people list their employer. I think that they are likely, in one way or another connected, as suggested by the contributions being the same and by the date being the same, but that is not adequate, I would agree, and the form would be a much better form if it comported with the federal form in the respect to which I speak.

MR. BIENSTOCK: Are you familiar with the provision in the new Public Funding Law which requires that the intermediary of campaign contributions be disclosed?

MR. GOLDIN: Yes, I am. I regard that as an insufficient provision. I regard it as a deficient provision, but I am generally familiar with it, and I want to explain the respect in which I regard it as deficient.

MR. BIENSTOCK: I was going to ask you if you're
aware of whether or not it would cover the situation depicted here.

MR. GOLDIN: It would all depend. As I understand it, that provision is designed to cover situations in which a single individual forwards checks to a campaign committee. I do not understand that it is designed to cover a situation in which a single individual solicits, but in which the checks are sent in independently or individually.

In my judgment, it elevates form over substance in that regard.

MR. BIENSTOCK: Is it fair to say that Bear, Stearns regularly receives or does business with the City?

MR. GOLDIN: I would say that in one way or another, most of the major financial institutions, either directly or indirectly, have an involvement in City business, yes.

MR. BIENSTOCK: Bear, Stearns is, of course, at the first tier or just below the first tier as an investment firm on the recent $2.1 billion --

MR. GOLDIN: It is what we call a first tier underwriter, just below the managing underwriters.

MR. BIENSTOCK: And are you aware that
Bear, Stearns was awarded a $430,000 contract as an investment advisor to the Police Pension Fund in April of 1987?

MR. GOLDIN: Mr. Bienstock, I think fairness ought to impel me, if not you, to note at this point that the selection process in all of these matters is one in which I am not involved directly, is one in which there are professionals who handle these matters through an RFP process on an objective basis and who make the decision without interference by me.

MR. BIENSTOCK: That's true. But you do retain the right to make the final -- you do have the authority to make the final decision?

MR. GOLDIN: That's correct, and it is made pursuant to my authority.

MR. BIENSTOCK: My point is not to suggest anything other than -- were this a Board of Estimate decision or were this a matter of contributions greater than the $3,000 that would fall into the Goodman Amendment, and these various decisions we discussed that are either not Board of Estimate decisions or involve contributions which aren't aggregated under the Goodman Amendment,
like the twenty-five $1,000 contributions or affiliate corporate contributions that I can point to, the Goodman Amendment is not involved, and that's my only --

MR. GOLDIN: I think before, we -- at least before, I left the mistaken impression which some might gather, that it would be a different situation of the Goodman Law, by its terms, covered this matter. We ought to point out that it really would not, because the Goodman Law, as I understand it, limits contributions under certain circumstances to $3,000 and, as you note, these contributions were each individually $1,000, and as we agreed earlier, at least as I posited for you earlier, I didn't hear you disagree, the law is chaotic, especially as it related to the interrelationship among the Goodman Amendment, that Goodman Law, the State Election Law itself, the City Election Law as it relates to the contributions of entities, participants in entities, officers of entities, partners of entities.

I'm not certain what the point is respecting the failure of the Goodman Law to cover this situation because I don't understand why it would
be any different if it did.

MR. BIENSTOCK: Do you have a view as to whether the Goodman Amendment deals with aggregate affiliate corporate contributions?

MR. GOLDIN: As I tried to indicate to you earlier, as I understand it, and I haven't studied this matter myself thoroughly, but from counsel, who tried to explain to me why this is such a chaotic situation, the Goodman Law seems to take a kind of global approach, the thrusting towards, if not approaching in an artful form, the SEC, the Securities Law definition of what constitutes an entity. It uses the notion of applicant. The Election Law, as you know, uses the notion of an individual, either corporate or non-corporate entity, as a contributor.

The City Council Law has another concept to it. It is very difficult to rationalize how these statutes are to be understood and, indeed, as you know, the then Corporation Counsel, I believe, referred to this earlier, Frederick Schwarz, adverted to this chaos and to what I called earlier this afternoon, the can of worms implicit in the Goodman Law, shortly after it was enacted in a
memorandum to the members of the Board of Estimate.

MR. BIENSTOCK: I couldn't agree with you more, Mr. Goldin, in what you just said. Let me try to cut through what sometimes is viewed as legalistic conversations between us.

MR. GOLDIN: We have the disadvantage of being lawyers, both of us.

MR. BIENSTOCK: I'm sure. Your filings indicate that in the last campaign, you accepted $300,000 in contributions from the firm which turned out thereafter to be selected for the $2.1 billion bond issue. None of it, as best I can tell, is illegal, none of it, and I don't mean to imply that.

My question is: Is that a good thing from the point of view of the perception of the public?

MR. GOLDIN: Mr. Bienstock, in my judgment, the entire process of private financing of campaigns is replete with the kinds of ambiguities, the kinds of uncertainties, the kinds of doubts that give rise to enormous public skepticism as to the decency of the whole process.

In my judgment, there is only one remedy that is calculated to cut through that, and that is for
all who recognize that to mobilize to help to explain that to the Legislature and to insist on public financing of campaigns.

I have not found that the efforts, to date, to slice the salami thin, or to slice it in different ways, produce a result calculated to restore public confidence so that the process is free from the taint of private money, and I think that ought to be a primary objective coming out of this process.

MR. BIENSTOCK: Let me try to slice the salami one more time.

In several other states and in the federal government, there is an absolute flat provision on those doing business with the government making campaign contributions.

Do you have a view as to why New York shouldn't go to that rule in the interim, before it reaches your --

MR. GOLDIN: Well, I've seen testimony, Mr. Bienstock, from people who have been candid who have participated in the system, have given us great reason to doubt that it is an honest system.

I recall reading at the time that Barber Conable, the distinguished --
MR. BIENSTOCK: You're referring to the federal system?

MR. GOLDIN: The federal system. -- the distinguished ranking member of the House Ways and Means Committee, now head of the World Bank, was nominated for his current position, he gave an interview in THE NEW YORK TIMES in which he described the federal system of campaign contributions, which helps explain why people are so cynical about this process of private campaign contributions.

Mr. Conable, as I recollect, said that at one point he was offered a contribution -- and I'm giving this to you to the best of my recollection -- he was offered a contribution by a corporate executive. He told the corporate executive that for one reason or another, he was not accepting contributions from that corporation or could not accept a contribution from that corporation.

MR. BIENSTOCK: I should remind you, sir, that in the federal system, corporate contributions are prohibited.

MR. GOLDIN: Well, it may have been a defense contractor or it may have been a corporation.

Apparently, the contribution was either prohibited
or the contribution was considered unwarranted by
Mr. Conable. Mr. Conable said, as I recollect,
that shortly thereafter, he began getting unsolicited
contributions in the amount of $150, or whatever
dollars it was, from corporate executives all
over the United States, it came in over the transom,
and it was clear to him -- the inference in the
interview that he gave THE TIMES was, that this
represented an evasion -- evasion may not be the
right word -- an avoidance of the provision.

And I suspect from what I have heard, anecdot-
ally, that the federal system is replete with that,
that the provision against corporate contributions,
that the provision against contributions by defense
contractors, leads those who are unable to make
the contribution but who are asked for help by
candidates who are either incumbents or challengers,
to find all kinds of avoidance devices.

It seems to me that that is a highly undesir-
able byproduct of a system in which we fail to
recognize that only public financing will convince
the public that the system is honest and above
doubt.

MR. BIENSTOCK: I want to move on, Mr. Goldin,
and ask you some questions about your past fund raising activity. Let me ask you this: When did you put in place your moratorium on accepting contributions?

MR. GOLDIN: Well, my recollection is that it was sometime in 1986.

MR. BIENSTOCK: And it is the case that at that time and presently, you did have a balance, shall we say, in your campaign account; is that right?

MR. GOLDIN: Yes, but, obviously, I expect to be a candidate in 1989, and the cost of elections has become much more expensive.

If you will permit me to give you this, which I think will give you some perspective, my recollection is that in 1973, when I was first elected Controller, a heavy week, what I would regard a saturation week of radio and television in this market, cost $25,000.

In 1981, which is a year that I have in mind specifically, my recollection is, just eight years later, the cost of a similar week of radio and television advertising in this market had risen ten times to $250,000, and I suspect it is even
considerably higher than that today.

So, if the inference of your question is that the reason for the moratorium was because I had a carryover balance that I had not used in 1985, that is incorrect.

MR. BIENSTOCK: Let me ask you this, however. Can you tell us the reason why you used more than one campaign committee in your past campaigns?

MR. GOLDIN: Well, my recollection is that in each of the campaigns, and I've run in many, many campaigns over the years, I've tried to aggregate them, but I can give you a sense of it. I ran in a primary in 1964, a primary and a general election in '65. A primary and a general election in 1966; a primary and a general election in 1968; a primary election in 1969; a general election in 1970; a general election in 1972; a primary and a general election in 1973; a general election in 1977; a primary and a general election in 1988. I could keep going.

My recollection is that, for convenience purposes, as these elections occurred, a committee would be created, and we simply never closed out committees, or they were rarely closed out, or
they were not uniformly routinely closed out and, as a result, I have carryover committees, in effect, that have simply continued in existence.

MR. BIENSTOCK: Is it your testimony that those are not active, that more than one of them are not active?

MR. GOLDIN: Many of them are not active. I cannot say that all of them are not active. Many are not active.

MR. BIENSTOCK: Your filings reflect that in 1981 that you had four campaign committees with perhaps -- or, perhaps even two of them may have been inactive, but at least of them were active, and in 1985, you had two, both of which, it is my understanding, were active.

MR. GOLDIN: Well, again, because I had understood that the focus of this proceeding was going to be from 1983 forward, I'm not conversant of what may have happened before then, but my recollection is that we had a receiving committee and a disbursing committee. That is my best recollection, and that may help to explain the reason for that dichotomy.

MR. BIENSTOCK: Don't multiple committees
make it harder for the public to track campaign financing activity?

MR. GOLDIN: Not as I understand it. My understanding is that when a member of the press or an interested citizen or whomever, goes to the appropriate filing location and asks for committee filings based on the name of the candidate, that they are kept on the basis of the name of the candidate and supplied on that basis. That has always been my understanding.

MR. BIENSTOCK: I understand that you have not received contributions since 1986. My next question is: Having had that experience, and putting aside, just for the moment, the notion of fully financed public campaigns, and assuming that we are going to continue for at least the present with at least partial reliance on private contributions, would you favor a ban on off-year fund raising?

MR. GOLDIN: I think that would be a great mistake.

MR. BIENSTOCK: Why is that, sir?

MR. GOLDIN: Because, as you can tell from the extensive work that you have done, fund raising is a time consuming matter. It involves lots of
meetings, lots of inquiries. As it is, the public business suffers to a degree during campaigns when incumbents, challengers who may be public office holders, are obliged to devote themselves to a considerable degree to the election process, to educating the public, to soliciting votes.

It seems to me that compressing fund raising into a short period would simply disrupt fully and perhaps result in the suspension of the public business.

As matters stand, because there's not necessarily such pressure to conduct all of the fund raising activity at one time shortly before the election, it can be handled on a much more leisurely basis over a prolonged period of time and becomes much less disruptive.

MR. BIENSTOCK: Well, while you have had a moratorium for about two years on campaign contributions, there has been activity, I think you'll agree, on the expenditures side.

MR. GOLDIN: Correct, in anticipation of fund raising activity.

MR. BIENSTOCK: That's what I want to ask you about. Your records indicate that you hosted a
party on July 16, 1987 at the Metropolitan Museum of Art which was paid for out of campaign funds to the tune of about $35,000.

Can you tell us the purpose of that expenditure?

MR. GOLDIN: Yes, sir. As the Committee knows, or, Commission knows well, it is the practice of many candidates to hold fund raisers at least on an annual basis to which they sell tickets. I tend to not do that. I tend to hold fund raising type functions for contributors who have either contributed in the past or contributors whom I anticipate will contribute in the future. It's to enable me to maintain an association in a context with contributors that is removed from my official duties and, therefore, is comfortable for me.

They all understand that it is related to fund raising, although there is no direct fund raising, necessarily, at the function.

MR. BIENSTOCK: You accept pledges for future contributions at such functions?

MR. GOLDIN: Well, it can happen and has happened at such functions that people have said to me: Well, when am I going to be asked for the check?
MR. BIENSTOCK: And what did you say?

MR. GOLDIN: I've said, "Be patient."

MR. BIENSTOCK: Exhibit 58 in the book in front of you is the guest list for the Metropolitan Museum function, and I think you would agree that that guest list includes many prominent members of the financial community. The guest list also includes prominent lobbyists.

Let me ask you about lobbyists. Do you think that lobbyists should be engaged in fund raising for officials for whom they lobby?

MR. GOLDIN: Well, again, Mr. Bienstock, you get into such enormous difficulty in definition. We are not speaking now colloquially, we are speaking as people who are lawyers and who are really anticipating how you would formulate and how you would define --

MR. BIENSTOCK: I would accept the City Ordinance definition of those who are required to register.

MR. GOLDIN: I think there is an argument, that if people are required to register, that they ought not to be treated any differently than anybody else. There is no reason I can see, particularly,
to treat them differently than their clients.

MR. BIENSTOCK: Are you familiar with Howard Rubinstein's position, recent position on this question?

MR. GOLDIN: Am I familiar with his substantive position on this issue?

MR. BIENSTOCK: On the question of whether or not lobbyists should be engaged in fund raising.

MR. GOLDIN: Well, it would not surprise me to learn that Mr. Rubenstein would not mind if there were a statute that precluded him from fund raising. I don't know that that's his position. I see that he's in the room. I'm sure that you can ask him.

MR. BIENSTOCK: I want to focus just for a moment on the new Public Funding Law.

Did your office get involved in lobbying concerning any provision of that law?

MR. GOLDIN: I don't know that my office did, but I did.

MR. BIENSTOCK: Can you tell us the extent of that?

MR. GOLDIN: Yes. I spoke to the Majority Leader of the City Council on the matter on a
couple of occasions.

MR. BIENSTOCK: Did any of those conversations have to do with the provision for the use for matching purposes of funds accumulated prior to the effective date of the law?

MR. GOLDIN: Yes, among other things. Yes.

MR. BIENSTOCK: What were the nature of your conversations?

MR. GOLDIN: I understood that the Mayor was lobbying extensively in preventing me from being able to use any of the carryover funds, unexpensed from my 1985 campaign and future campaigns, and I indicated to the Majority Leader that I did not think that would be fair.

I also indicated to the Majority Leader that the limit on City-wide elections, that I had understood the Mayor was lobbying for vigorously, might warrant suspending the election.

MR. BIENSTOCK: Because they would do well?

MR. GOLDIN: That is correct.

MR. BIENSTOCK: Moving back to what we fondly refer to as the "war chest" provision, can you tell us the reason or relate to us what you told Mr. Vallone as to the substance of why it would be
unfair?

MR. GOLDIN: I can't recall specifically my words to Mr. Vallone, but I will tell you the substance of my view on the matter, which is essentially what I think you're interested in.

MR. BIENSTOCK: Fine.

MR. GOLDIN: In connection with my 1985 campaign, when I became engaged in the bulk of the fund raising program, I did not know who my opponent would be. There was talk of a man of immense personal wealth running against me at one juncture. In the end, he did not run against me. But I anticipated that I might very well need substantial funding for a closely contested race for re-election, if that might turn out to be true.

I also disclosed to people from whom I raised money early on, that I would use the funding either for Controller or for Mayor. As you know, in the end, although somebody began to run against me, that person did not go through the process.

As a result, I decided that it didn't make much sense simply to shovel out the money, to get rid of it, that it would be foolish to just try
to spend money to end up with none in the account, and that the sensible thing to do was to husband those resources until they became needed in a campaign in which I would be obliged to spend them.

MR. BIENSTOCK: And do you believe it would be unfair to prohibit you from applying those funds for the purpose of getting --

MR. GOLDIN: That money was raised under the applicable statutes and regulations. It was raised in anticipation of a campaign in which I thought I might need the money, which it turned out I did not. The disclosure was made fully to people that the money would be used either in a campaign for re-election or in a campaign for Mayor.

MR. BIENSTOCK: Excuse me. I'm not referring to whether or not the money could be spent in a subsequent campaign. I'm referring solely to the provision which allows you to apply a portion of those funds to get to be matched by public funds.

MR. GOLDIN: I misunderstood. That's a matter of what the statute permits, and it's exactly that kind of issue that I've asked counsel to advise me on. I am awaiting counsel's interpretation as to the applicability of the funding from that
standpoint.

MR. BIENSTOCK: Maybe I misunderstood, because my question related to the change in the law from the Mayor's original proposal.

Let me try to go through it again.

MR. GOLDIN: Let me say to you, Mr. Bienstock, that I'm not nearly so conversant as you are in the various versions of the statute.

MR. BIENSTOCK: Let me try to summarize, if I can. The original Bill which was drafted by the Corporation Counsel proposed by the Mayor would have permitted the use of a portion of the funds that had been received prior to the effective date of the law, but would not have permitted those funds to be used for the purpose of matching.

An amendment to the law, which was put onto the law before it passed the City Council, changes not whether the money, or to what extent, as far as I know, the money could be spent, but whether or not a portion of the money can be matched by public funds.

MR. GOLDIN: And that amendment, I gather, passed.

MR. BIENSTOCK: Yes, the money in the campaign
coffer on the effective date of the law.

MR. GOLDIN: Yes.

MR. BIENSTOCK: And I thought I heard you say that you had lobbied with Mr. Vallone to have that change come into effect.

MR. GOLDIN: Either I didn't understand your question or you didn't understand my answer or it wasn't clear.

In any event, I don't think that I got that specific with Mr. Vallone. I indicated to Mr. Vallone that I felt it would be unfair to preclude a candidate who had not expended money that had been raised for a prior campaign, that had been raised properly and appropriately, where full disclosure had been made, from utilizing that funding.

I did not get into specifics in the kind of detail you describe.

I understood the Mayor was lobbying vigorously at that point to restrict the use of such funding. I did not think that was fair.

MR. BIENSTOCK: I have one final subject, and I apologize to the Chairman. I just realized I have gone over my time.
In March, I'm interested to know if you're aware, there was testimony before this Commission concerning your personal fund raising techniques, and I think it's only fair for me to ask you at this juncture whether or not you believe that when a public official who, necessarily, must exercise discretion over a large number of matters in which some businesses stand to gain and others stand to lose enormous sums, when a public official personally solicits campaign contributions from the men and women who run those businesses on a one-to-one basis, there is not at least the possibility that those being solicited will feel pressure to give the contribution requested.

MR. GOLDIN: Well, this Commission, I think, dealt very faultfully with the conundrum implicit with that issue in its interim report last December. There is an interesting and provocative comment on page 20 of the report.

The last sentence at the end of the first full paragraph says, "Current law is seriously deficient in this respect because only the most naive could fail to recognize that public officials who owed their electable success to these individuals, those
who solicit." In other words, avoiding this direct face to face contact about which you talk.

The public officials who owe their electoral success to these individuals will, at the very least, appear to be indebted to them, and the interests with which they are affiliated.

So, the inference in your question that somehow or other, it is preferable to have intermediaries ask and solicit, seems to me, raises the very problem that the Commission, quite responsibly, dealt with in a general way in that report.

MR. BIENSTOCK: In your view, a person to person soliciting is preferable?

MR. GOLDEN: I think it is. Obviously, it can't be the exclusive method of solicitation.

I know when I meet with somebody who may be contributing to my campaign, there is no basis for ambiguity as to the purpose of the contribution. I make it abundantly plain that I am asking for somebody to support me in the hope that they will find that I am the kind of person who should be elected to public office. It gives people a chance to ask questions.

I know that the Commission heard testimony in
March to the effect that somebody who contributes, certainly in size, wants the chance to question the candidate about his or her policies. I don't see why it is preferable to have the candidate walk out of the room and have -- go through the fiction of having a third party ask for the funding with the candidate having left the room.

I think the Commission dealt with one of the problems that engenders in the report to which I just referred.

MR. BIENSTOCK: With the Chairman's permission, I would like to ask one final question.

THE CHAIRMAN: Go ahead.

MR. BIENSTOCK: Your proposals for full and complete public funding, your idea, we have heard testimony today that the $28 million budget for partial voluntary funding, I think it is fair to characterize the testimony, is that that budget appropriation of $28 million is in some jeopardy.

MR. GOLDIN: It should be. It doesn't belong in the budget.

MR. BIENSTOCK: You believe that the State should fund it?

MR. GOLDIN: No. As I think you know, there
is no anticipation that dime of that is going to be spent in the fiscal year that is going to start July 1. I fail to understand why the City should set aside funding for a purpose that will not be met in the fiscal year in which the money is designated. It makes no sense.

MR. BIENSTOCK: Putting aside the question of the fiscal year.

MR. GOLDIN: Doesn't dismiss that unless as a detail, that is the issue.

MR. BIENSTOCK: I understand.

Do you think it is feasible for the City to fund a full public funding program?

MR. GOLDIN: Absolutely. It is feasible, it is essential, it is very difficult to put a price on the restoration of public confidence in the democratic process.

We are suffering in this country, and we are suffering particularly badly in the City, from a constant, a steady erosion of public participation in the electoral process. I regard that as a very dangerous thing.

I don't want to be melodramatic, but in my judgment, that is a destruction of democratic
institutions and needs to be dealt with promptly and dramatically.

The public has to be convinced that the system has been totally and fundamentally reformed, that private money has been removed from the process, that they can have confidence that candidates for public office stand before them having been funded by the public treasury.

To the extent that I am told that the public is not for it, the public hasn't been educated to accept it. My response is that that is part of the job of public officials, to help educate the public.

I welcome this kind of commission, as I welcomed the Sovern Commission, because it seems to me that these instruments can be absolutely indispensible in this process of public education.

I worry about an expediency through which we create what people think is half a loaf, which creates public expectations that the system has been totally reformed. Which, in the end, in my mind, almost assures disillusioning the public even further when it finds that the kinds of ambiguities, and the kinds of risk that we can anticipate up front are implicit in the system,
have led to its exploitation.

MR. BIENSTOCK: Given your position, sir, are you committed to accepting public funding in 1989?

MR. GOLDIN: I'm going to comply with the new statutory arrangement fully.

MR. BIENSTOCK: Is that an affirmative answer to my question about whether you are committed to accepting public funding?

MR. GOLDIN: I expect to comply with the statutory arrangement. As I told you, I am awaiting the advice of counsel on the thrust of this new statutory arrangement, State, City, the Goodman Law, and I expect to comply with it.

I have not yet focused on the extent or nature, or cast of that participation, but I expect to comply with it.

MR. BIENSTOCK: I don't mean to quibble, we haven't so far, and I didn't mean to start it in the last question. You understand, I am sure, that the public funding component of the new City Bill is voluntary. That is one --

MR. GOLDIN: I am not quibbling with you or toying with you. I expect to comply with the statute, voluntary or not, I expect to comply with it.
MR. BIENSTOCK: You expect to accept public funding?

MR. GOLDIN: I expect to comply with the statute.

MR. BIENSTOCK: Thank you, Mr. Goldin. I have no further questions.

THE CHAIRMAN: Thank you very much.

Before turning it over to some of the other Commissioners, you made some comments about your views as to the new budget, and it is not my intention to really get into the details of the new budget.

I assume that you fully support the notion that the new agency that has been created, should be fully effective in the sense of staff support, computerization, those administrative functions that need to be dealt into an agency to make it effective?

MR. GOLDIN: The best way I can respond to it is by telling you that during the depths of the City's fiscal difficulties in the late 1970's I fully supported expenditures by the City and it ran into millions of dollars, to create systems that would allow the City to function, even though
there was no broad public support for those functions.

I feel the same way about our expending the relatively modest sums that are necessary in order to restore integrity to the electoral process.

My judgment is, we can afford to expend those monies. Indeed, I would look at it differently and say that we cannot afford not to.

THE CHAIRMAN: Thank you.

I had a series of questions with the Mayor, and we had a number of responses concerning the so-called money that he has accumulated.

In the colloquy we had, it seemed to me, in any event, that there was some common ground that there might be money left over because the new public law for the City limits the amount of the "war chest" that could be used if one accepts public financing.

Our Staff has informed me that according to their information, the amount that could be used for matching gift purposes, that is part of your "war chest" is really a small amount compared to the totality of the "war chest." That leads me to my conclusion that you may very well have a
Goldin

substantial amount of money left over if you go through the new public financing system.

I recognize what you said about wanting to be guided by counsel, which is something that certainly one ought to do in this area, but have you thought about the range of possibilities as the use you might make of any excess monies that don't become part of your campaign under the new Public Finance Law?

The Mayor, for example, said, with reference to money that he doesn't use for campaign purposes, he believes he will probably contribute that to charity.

MR. GOLDIN: I have not thought about the issue in that kind of detail, Mr. Chairman.

As you acknowledge inferentially, you are a couple of steps ahead of me, my counsel has not given me the advice that you have, apparently, gotten from Commission Staff. I have great regard for the people who are looking at the matter for me, they have told me that the areas are replete with uncertainties, ambiguities, they are going to have to consult, hopefully, with the Campaign Finance Board. They are awaiting it being in place.
It is much delayed.

That troubles me, I might say to you, I don't know why it should be so delayed. I regard that as a matter of great concern. It should have been a priority to get that Board functioning. It shouldn't be functioning so inadequately in terms of resources. I don't know why that is happening, and I am troubled that it is happening.

THE CHAIRMAN: Thank you.

Commissioner Hynes.

COMMISSIONER HYNES: I just have one question.

I realize that you are waiting for counsel to give you advice on the new City Public Funding Law, but let us assume for purposes of argument, there is an ambiguity, and your counsel tells you that there is ambiguity as to whether you can accept a corporate donation from subsidiaries and affiliates of a corporation.

In other words, that it is open for your to accept contributions from subsidiaries and affiliates.

Would you voluntarily make a determination for your own campaign that you would limit the corporate contributions to $3,000, and that would include subsidiaries and affiliates?
MR. GOLDIN: Ms. Hynes, this is exactly the kind of question that has to be resolved by the Campaign Finance Board, and it should be resolved by them.

When I began my colloquy with Mr. Bienstock at the outset, I indicated that there are so many questions that are subsumed in that question relating to corporate PAC's, corporate officers who dominate the company, is it appropriate to accept a contribution from a corporation, and then to accept a contribution on top of that from the dominant stockholder in the corporation, or officers of the corporation?

What about suppliers to the corporation? What about the lawyers of the corporation, the accountants?

It seems to me that this is the kind of issue that has got to be dealt with, and should be resolved by the Financial Control Board. I hope it is. I don't plan to take a position prematurely without getting the best information, the best resolution that I can, that would give me a definitive situation upon which I can make a judgment.
COMMISSIONER HYNES: The reason I raised it is, this morning the Mayor said that it would be his position with respect to his campaign that he would limit corporate contributions to $3,000, and that would include subsidiaries and affiliates. That was the reason for my question, if you would follow that course of conduct.

MR. GOLDIN: You heard me respond to Mr. Bienstock's formulation by asking whether the Mayor had been probed on what he really means by that, and whether he had thought that through, and what that covered, what did it not cover.

Mr. Bienstock indicated to me that there had been no follow-up with the Mayor on that, the issue had been left unresolved.

I would hope that it would be resolved, and it seems to me that the appropriate way to resolve it is through the Campaign Finance Board. That is exactly why it was created.

THE CHAIRMAN: Commissioner Magavern.

COMMISSIONER MAGAVERN: Mr. Goldin, have you reviewed the transcript of Mr. Bernstein's testimony in preparation for your testimony here today?

MR. GOLDIN: I have looked at it, Mr. Magavern.
I can't say I reviewed it, I glanced at it.

COMMISSIONER MAGAVERN: Did you find it to be substantially accurate in his account of his meeting with you?

MR. GOLDIN: I regarded it as rather interesting that there was a several year lag in the events and the indignation. The indignation, interestingly enough, occurred about four or five years after the event. The indignation coincided with Mr. Bernstein having learned, to his obvious chagrine that I took very vigorous exception, opposed very strongly the project of his on 46th Street and Sixth Avenue in the form which he proposed it.

I did not feel it was in the public interest.

COMMISSIONER MAGAVERN: Well, he testified that he received a call from you inviting him to have either breakfast or lunch with him, and you subsequently met at the Plaza Hotel. Prior to that invitation to him, had you known him on a personal basis?

MR. GOLDIN: Well, it is generally not my practice to call people who I have not met and do not know, to ask for campaign contributions. I feel comfortable doing that, asking for campaign
contributions only with people whom I have had
some contact or to whom I have been introduced for
that purpose.

COMMISSIONER MAGAVERN: What was your prior
experience with Mr. Bernstein?

MR. GOLDIN: I don't recollect the specific
circumstances of our contact, but I know that I
have assuredly met him.

COMMISSIONER MAGAVERN: You didn't regard him
as an old friend?

MR. GOLDIN: No. As you know, Mr. Bernstein
was new in town. We now learn, which none of us
knew at the time, he had come here as an agent of
the Marcoses. I did not know it then.

COMMISSIONER MAGAVERN: Any contact he had
with them prior to that would have been very cursory,
a mere introduction, at the most?

MR. GOLDIN: I indicated to you that I had
met him. I don't know where, how often, but I do
know that I met him.

COMMISSIONER MAGAVERN: What reason did you
have to believe that he would be interested in
making a substantial contribution to your campaign?

MR. GOLDIN: Well, as you know, Mr. Bernstein
has been a significant contributor to political campaigns. I believed him to be a man of significant means, and I had met him, and I thought that he might be interested in contributing to my campaign.

COMMISSIONER MAGAVERN: Had he had any business before the Board of Estimate prior to your contact with him, your invitation to lunch?

MR. GOLDIN: Not that I recollect.

COMMISSIONER MAGAVERN: Can you understand how a reasonable person in his position might have felt some pressure to make a contribution in order to avoid incurring the disfavor of someone who had substantial authority over projects that he might be bringing forward in the future?

MR. GOLDIN: No. My experience is that people who are sophisticated, people of substance, people of great means, have very little embarrassment about what it is they decide to write a check for.

COMMISSIONER MAGAVERN: Do you think his response, as he testified, was an irrational response?

MR. GOLDIN: I wouldn't call it irrational, because that is a clinical judgment, but I said to you that the indignation that he expressed here, I think, took quite a long time to develop, and I
regarded it as not coincidental that that indignation, in my view, coincided with the great irritation of Mr. Bernstein in my opposition to his project. It was costing him many hundreds and hundreds of thousands of dollars.

As I told him when he called me and asked for me to support the project, if it were within my province, the project would be denied.

COMMISSIONER MAGAVERN: Does that indicate to you when he made that contribution, he may have expected favorable treatment from you in the future?

MR. GOLDIN: I don't know. You will have to ask him.

COMMISSIONER MAGAVERN: Is that your interpretation of his more recent response?

MR. GOLDIN: My interpretation of his more recent response is that he is disgruntled, chagrined, angry, he wanted me to approve the project. I held it up, unilaterally, for months and months.

I thought, as a matter of policy, that it was a grave mistake for the City to accede to the project in the form in which he proposed it. I thought it was bad public policy, and I so told him.

COMMISSIONER MAGAVERN: You described earlier
your belief that there is great cynicism on the part of the public, a feeling that government is pervaded by campaign contributions, and without suggesting criticism of anyone who plays the rules, plays the game according to the current rules, do you believe that the kind of fund raising tactics that you used with Mr. Bernstein would be a part of the problem that has to be addressed?

MR. GOLDIN: No, not to the extent that you are suggesting that it is isolated.

COMMISSIONER MAGAVERN: I don't mean isolated.

MR. GOLDIN: Commissioner, last Friday, the DAILY NEWS reported that the Democratic and Republican presidential candidates, as we can now describe them, I think, are going to be holding major fund raisers in New York. To which the DAILY NEWS said, there have been substantial commitments -- I have forgotten the amount, it was $35,000 or $50,000 -- that have been made by prominent Americans and well-known New Yorkers.

You and I would have thought that the limit under the federal statute is $1,000 in contributions. Yet, somebody picking up the DAILY NEWS would, quite accurately, gotten the impression that whatever
the pretense of the statute, there are people who have publicly declared that they are somehow going to be able to contribute, whether directly or indirectly, 35, I think it may be $50,000.

In my judgment, that dramatizes the need for public financing of campaigns.

Even in a federal system which doesn't permit corporate contributions, which doesn't permit contributions to be made by defense contractors, which limits it to $1,000 a person, to me, that helps to dramatize why it is that the system I am urging is the only answer.

COMMISSIONER MAGAVERN: Would you include, for example, contributions by corporations associated with Mr. Gutterman, totaling about $100,000, as a kind of a problem that has to be resolved?

MR. GOLDIN: No, I am not separating that out. Clearly, the law permitted that. I am saying that the law should be totally changed, and that we should take advantage of a climate which I think is now conducive to the kind of reform about which I am talking to.

If you have enough of us insisting on it, I believe that there is a very good chance that it
will be realized.

Indeed, I have said it in other forums, other occasions, if the Legislature resist public financing of campaigns on an institutionalized basis, we should urge the Legislature to allow it on a demonstration basis, perhaps over two election cycles, say, starting in New York City. Maybe that would be more palatable to the Legislature.

It is on that kind of initiative that forums like this, commissions like this, thoughtful citizens, I think, can be instrumental.

COMMISSIONER MAGAVERN: Let me turn very briefly to the selection of underwriters and their participation in underwriting bond and note issues by the City.

Have you, at any time, made any request or suggestion to your staff as to how much a particular underwriter ought to participate in a particular issue?

MR. GOLDIN: I thought I answered that question earlier, Commissioner, when I said that the selection of underwriters was handled by a senior professional member of my staff to whom my direction was that the process ought to be handled
fairly and objectively. There was a fairly large committee designated by me and the Mayor to conduct the process, it was executed through RFP's, requests for proposal, through a process of interviews.

I never reviewed the RFP's, I never participated in the interviews, I never evaluated the qualifications of the individual applicants, I left that to the senior professional staff.

So, I think that that answers the question, Commissioner.

COMMISSIONER MAGAVERN: Have you ever received a request by an underwriter to intercede in that underwriter's behalf?

MR. GOLDIN: I have gotten many inquiries from applicants, satisfied and dissatisfied, respecting this matter.

As a matter of fact, one prominent example that I can think of involves three commercial banks which were disgruntled from having been precluded from the underwriting syndicate. I got many inquiries on this matter.

COMMISSIONER MAGAVERN: I understand your answer a moment ago to be in general terms. Generally, you did not make any suggestions to your
staff or to others on behalf of any particular underwriter.

Let me ask if there have ever been any exceptions to that general policy?

MR. GOLDIN: I cannot think of any exceptions, no. I have given general direction, as I have told you, general policy has been reviewed with me. But, the evaluation of the merits of particular applicants, has been handled by the professional staff.

COMMISSIONER MAGAVERN: Thank you.

THE CHAIRMAN: Commissioner Emery.

COMMISSIONER EMERY: I want to try to step back a second and look at some of the underlying motivations here and ask you, first of all, in a completely different context, not the context we are talking about here today, but the context of actual bribery, such as the PVB situation, Citigroup, where stock was promised, at least as the testimony showed, clearly, in that situation, is it not the case that the people participating in the actual bribery, those in the private business world who are bribing the public officials, their motivation is to get business through the
discretionary judgments of the public officials; isn't that basically correct?

MR. GOLDIN: Commissioner, you are dealing there with thieves.

COMMISSIONER EMERY: I understand that.

MR. GOLDIN: I don't mean to anticipate where you may be heading, but I don't think you can extrapolate from the criminal mind to a prevailing practice that involves, I believe, in the main, on his people.

COMMISSIONER EMERY: Now, what I am asking you is, in the situation as alleged, for instance, in Wedtech, where stock is distributed to people, the motivation that is alleged is criminal, is it not, of private business people -- excuse me -- private business people who are engaged in that kind of stealing, if you want to call it that, thievery, criminal activity, is an attempt to gain profit through obtaining business illegally through the discretionary judgments of public officials; isn't that the case?

MR. GOLDIN: That would appear to be true.

COMMISSIONER EMERY: Now, in those companies, the few examples that we have locally, there are
rarely campaign contributions, those companies don't make campaign contributions, they make bribes in those cases.

Can you think of any of those companies who have been involved in criminal allegations that made substantial campaign contributions?

MR. GOLDIN: I think the answer is yes.

COMMISSIONER EMERY: If there were, it is minimum?

MR. GOLDIN: Minimum is in the eyes of the beholder. The answer to your question is, I think there were companies that have been implicated in brieries who also made campaign contributions.

COMMISSIONER EMERY: I take it it is your contention from what you said a minute ago, that in the context of making a campaign contribution, a person who is in business the City, who does business with the City, who makes campaign contributions to an individual public official, who has in his or her control discretionary judgments, that there is a different motivation; that's your contention a moment ago, is it not?

MR. GOLDIN: I'm a little confused about the line of questioning. I said to you at the outset
that I don't think that you can analogize a criminal activity to a chronological activity.

COMMISSIONER EMERY: I am only looking at the motivation now. The motivation to get business.

MR. GOLDIN: The motivation of a criminal is criminal.

COMMISSIONER EMERY: Okay. On the one hand I am asking you, is the motivation to make money?

MR. GOLDIN: If you are asking me in this kind of society, our civilization, is the motivation profit, an appropriate profit, my answer would be, under appropriate conditions, it is proper.

COMMISSIONER EMERY: That is right, that a campaign contributor, in some instances, may be purely altruistic in some instances, maybe a good government person may think of you as the best person to be Controller, Mayor, Governor, thinks you will do great for our society, and, therefore, contributes to your campaign.

In other instances, there are people who contribute to you, to other public officials, because they have in their minds that it is good business, it is because they are doing business with the City, they are doing business in this
society, you are good for business, you are good for them, they can make money.

Isn't that fair to say?

MR. GOLDIN: You know, Commissioner, it is precisely because there is this kind of feeling that engenders cynicism and distrust in the public mind because the public should not be called upon to make those kinds of distinctions.

COMMISSIONER EMERY: I agree.

MR. GOLDIN: Then I favor a system which removes them, and it is for that reason that I urge as strongly and as consistently as I do, that we not make them in the law, that we have public financing throughout.

COMMISSIONER EMERY: I understand.

Under the present system as it existed prior to February 29, and to some degree, it still exists, certainly State-wide, the fact of the matter is that the biggest givers are people and companies that do business in New York City with New York City, in New York State with New York State.

MR. GOLDIN: I don't think that is true.

COMMISSIONER EMERY: The biggest givers.

MR. GOLDIN: No.
COMMISSIONER EMERY: Well, I --

MR. GOLDIN: I had very, very large campaign contributors who do no business with the City, or very little, if any, with the City.

COMMISSIONER EMERY: You will agree with me that huge amounts of money are given by the real estate interests in New York City?

MR. GOLDIN: It is correct to say that large amounts of money are given to the State, are given to State candidates, people who do business with the State, City candidates, people who do business with the City and vice versa.

COMMISSIONER EMERY: In fact, the people who are chiefly solicited by candidates are people or -- not chiefly, let us say largely, are solicited by candidates, are people who do business over the very entities that these people have discretionary judgment for?

MR. GOLDIN: The principal people who are solicited by candidates are rich people who may or may not, in given instances, do business with government.

COMMISSIONER EMERY: The question to you is: Do you think a public official who solicits
campaign contributions has a duty to make a judgment about whether the motivation of somebody giving that public official a campaign contribution, is doing it for altruistic reasons, or because they are trying to make money for self-interested reasons; do you think the campaign, do you think the candidate who is in the middle of the campaign, has a duty to make a judgment about that as a public official?

MR. GOLDIN: Commissioner, I have a brother who is a psychiatrist, I don't practice his profession, he doesn't practice mine.

COMMISSIONER EMERY: I am not asking you about psychiatry.

MR. GOLDIN: I think you are.

COMMISSIONER EMERY: I think I'm asking you about duty.

MR. GOLDIN: You are cloaking a question about psychiatry in the guise of duty.

COMMISSIONER EMERY: I am not.

MR. GOLDIN: You are.

COMMISSIONER EMERY: I am asking you --

MR. GOLDIN: I beg to differ with you.

COMMISSIONER EMERY: Would you make the same
judgment that a prosecutor would have to make?

MR. GOLDIN: I am not.

COMMISSIONER EMERY: I'm asking you to make a judgment that a public official has to make.

MR. GOLDIN: I will tell you why that is an unfair formulation. A prosecutor, if I may, a prosecutor makes that judgment not in the abstract, but on the basis of evidence, on the basis of substantial inquiry.

COMMISSIONER EMERY: Right.

MR. GOLDIN: On the basis of resources available to that office which are calculated, which are designed to enable the prosecutor to reach a fully informed judgment.

By and large, people who run for public office, whether incumbents or not, don't have that capacity.

COMMISSIONER EMERY: Let me ask you this: Has there ever been a case where you, or do you know of any other candidate that has received a campaign contribution from a person who came to them and wanted to make a campaign contribution, who had never given a campaign contribution before, was doing business with the City, and was about to do
more business with the City and needed approval either in the form of a loan --

MR. GOLDIN: I don't understand the question.

COMMISSIONER EMERY: Are there situations where people give campaign contributions where they're mainly giving it for the reasons that you stated before, because they want to make money, and they do it as good business to give campaign contributions in their pursuit of making a profit in doing business with the City?

MR. GOLDIN: This Commission has been in business how long?

COMMISSIONER EMERY: A little over a year.

MR. GOLDIN: Has what budget?

I have a reason I am asking, I am not toying with you. It has a large budget?

COMMISSIONER EMERY: Yes.

MR. GOLDIN: Large staff. Has reached out, I assume, to large numbers of people, maybe hundreds of campaign contributors. I can't think of anybody who is in a better position to answer that question than you and your staff; much better than I.

COMMISSIONER EMERY: Let me tell you that there are many instances which we have found where
people have made contributions who do business with
the City, right before or right around the time
that the discretionary judgments are made by the
official to whom the contribution is given.

Let me ask you, then, do you think, under those
circumstances, it is a duty or reasonable for a
public official in that situation, to make a judg-
ment about the motivation of the person giving the
contribution, or should the person -- should the
public official just cover his or her eyes and say,
I don't care why they are giving it to me, I will
take it no matter what, because I am in a competi-
tive environment?

MR. GOLDIN: We are dealing in area that is
appropriately governed by statute. The statute is
designed to establish a system that is fair and
proper, and in which there are guidelines that are
known uniformly, commonly understood.

From time to time it develops that the statutory
scheme is deficient, unclear, ambiguous, needs
reform. This is such a period.

It seems to me that, therefore, we should
take advantage of this period to reform the system.

I don't think we should ask each candidate to
establish an independent system of his or her own; that is chaotic.

COMMISSIONER EMERY: I agree with you totally about reforming the system, but I believe the only way to reform the system is to eliminate the need for such judgments by having public financing.

MR. GOLDIN: Good.

COMMISSIONER EMERY: What I am saying to you is, under the current system, I think it makes perfect sense for a duty to be imposed upon a public official to determine whether someone giving him or her money, is doing it for reasons of profit or reasons of altruism. If they are doing it purely for reasons of profit, isn't it the same thing as bribery?

MR. GOLDIN: What you would have to do is ask every contributor, what is your reason for giving this contribution, is it altruism or profit. Is that what you are asking?

COMMISSIONER EMERY: Yes.

MR. GOLDIN: We can mandate that such a question be asked if you think that will be helpful. I don't want you drawing up statutes for me if that is where you are going.
COMMISSIONER EMERY: Let me put it this way: I think that there is reason to believe that there are many contributors who don't necessarily give for altruistic reasons, and I think that there are many public officials who know perfectly well that the reason the campaign givers are giving is not for altruistic reasons.

MR. GOLDIN: Commissioner, you are identifying -- I don't mean to quibble with you -- I don't think that this line of questioning is doing it in the way that I think will help the public understand the issue best, a fundamental weakness in the system. And that is that the public has grave doubts about the efficacy of the system. The system, therefore, is not working. It should be eliminated because we are talking about something that is so fundamental to the integrity of our entire society.

It is for that reason that I believe that the only course that makes any sense is public financing of campaigns because you are asking for distinctions to be made which, it seems to me, really cannot be made sufficiently well, sufficiently broadly, sufficiently comprehensively, sufficiently
objectively to reassure the public.

COMMISSIONER EMERY: That is why I asked this line of questioning, to bring out exactly that point about public financing.

Nevertheless, I think the word "unseemly," is the critical word you used, it is unseemly for people to give campaign contributions for self-interested reasons, it is unseemly for public officials to accept them when they know they are being given for self-interested reasons, and it is unseeming for the public, as a whole, to watch this process take place, and there is only one way to avoid it, which is to finance the whole system.

MR. GOLDIN: In the end, we come out the same place.

THE CHAIRMAN: Keven O'Brien.

MR. O'BRIEN: I want to ask you, in light of your eloquent statement about public cynicism, is it your position that in the absence of a pure public funding proposal, which none of us sees down the road, --

MR. GOLDIN: I have to interrupt you. Do not give up on it. I served for five terms in the New York State Senate, I know that if a commission
like this concedes that it is not achievable, it is not achievable. I know that if a commission such as this insists that it is the only answer, and that anything short of it perpetuates, in one fashion or another, the deficiencies in the present system, that is where we are going to end up.

In my judgment, the pretense, I put it earlier in another context, the pretense of reform, which elevates form over substance, and leaves the substance deficient, sets the public up for even greater cynicism.

MR. O'Brien: I don't disagree with anything you say. My question is, given what we have right now, do you really believe that your mode of soliciting contributions, one-on-one, in private forums, without any third-party witnesses at all, is the one best calculated to allay public cynicism and distrust about the process?

MR. GOLDIN: The inference in that formulation is unfair and inaccurate. By and large, the meetings that I hold are in public, they are in public places, they are not in camera, they are not in some secret location, there is no attempt to hide.
So, these are open conversations, held openly. I don't know who is eavesdropping at the next table. I am saying to you that the Commission, itself, recognized that there is a distinction without very much of a difference in trying to establish a dichotomy between the solicitation that is made directly, and the conversation that is direct and one in which the candidate, in effect, makes the pitch and then leaves the room while the hat is passed.

I don't know why one is preferrable to another.

MR. O'BRIEN: You would agree that there is a whole range of alternatives using intermediaries on the one hand, private breakfast meetings on the other; there are cocktail parties, public forums where you can present your views directly?

MR. GOLDIN: What is better than those?

MR. O'BRIEN: We are talking again not about the reality, but to use your term, we are talking about the appearance.

MR. GOLDIN: Let us talk about a word we haven't used this afternoon in my testimony. We are talking about perception.

Tell me why it is better for a candidate to
go to the boardroom of a law firm, or to go on the
yacht of a major real estate developer, or to go
to the apartment of somebody in the banking business,
and to have large numbers of people invited, have
the candidate come with all of those who are
present, knowing exactly why the candidate is there,
having the host or whomever is designated, say to
the candidate, now your part is done, we will let
you know how it comes out, and leaves; why is that
preferable?

MR. O'BRIEN: Let me turn it around a little
bit. Do you think Mr. Bernstein, to use your
example, a disgruntled individual, to use your
characterization, would be able to make the claims
that he did against you at our March hearing if
the fund raising at issue had taken place in any
of those contexts that you just described?

MR. GOLDIN: Mr. O'Brien, I don't think that
you can create a system that is calculated to deal
with each and every instance. It is precisely --
I don't want to come back to it over and over again
and say that I invoke it because it is relevant
in all these contexts, it is precisely because all
kinds of ambiguities and questions can arise that
I have urged on this Commission, that it be of stout heart, that it insist on public financing of campaigns.

I think the Commission was quite right in its own report that I read to you, and you are familiar, on an interim basis, in recognizing the problem which you set up one as preferable to the other.

MR. O'BRIEN: Thank you.

THE CHAIRMAN: One final question, Ms. Cushman.

MS. CUSHMAN: The question that I have is whether it is really responsible or prudent to postpone beginning to -- say, for this very substantial expenditure which the City will have in 1989, to postpone it to the year in which that money due to be spent.

Isn't it something like saving for your children's college education -- now it is coming and if you really believe you are going to spend the money, and you are really putting the money where your aspirations presumably are, you should be setting aside for it now; isn't that the most prudent way to go?

MR. GOLDIN: This City doesn't have a piggy bank. As expenditures arise, we budget for those
expenditures. It is ludicrous to compare the City to a Hanukah or Christmas Club in which it sets little pennies aside week by week in anticipation of expense, especially an expense on that order of magnitude. $28 million is a lot of money, to be sure. In a City with a $25.5 billion budget, it is a figure that we can afford.

When it has to be paid, the City can appropriate it.

It makes no sense, a year in advance, for the City to take the money and set it aside and not let it be used for critical public purposes for which we are desperate, when we have full capacity next spring or before the money will have to be spent, to appropriate it fully to the extent needed in the budget for the year starting July, 1989.

MS. CUSHMAN: You are confident the money will be available next year, and that it will be more appropriately spent on this than on any of those other urgent needs next year?

MR. GOLDIN: It will be appropriate to spend it next year, because that is when the money will be required.

This year it will simply be sitting in a corner.
somewhere, unavailable for other critical purposes. That makes no sense.

MS. CUSHMAN: Sort of like a "war chest."

MR. GOLDIN: No. The difference is that the -- what you characterize as a "war chest," left over contributions from prior campaigns, were collected in anticipation of the possibility that they might be needed in that prior campaign because there was no way of knowing whether they would be needed or not needed.

In the end, it developed that they were not needed in that campaign.

Rather than foolishly shoveling that money out, the sensible and prudent course is to retain it for when it is needed.

That is very different from a situation in which the City takes $28 million that it desperately needs for other purposes and sets it aside when it knows full well that when that money is required, in another year's budget, it will appropriate that money and spend it. The two situations are wholly unanalogous.

MS. CUSHMAN: Thank you.

THE CHAIRMAN: Thank you for your participation.
in this hearing.

We will declare a short recess.

(A recess was taken.)

THE CHAIRMAN: Let us have a seat.

Mr. Rubenstein, will you raise your right hand?

HOWARD RUBENSTEIN, called as a witness, having been sworn by the Chairman, testified as follows:

THE CHAIRMAN: Please be seated.

I would like to thank you for your participation in our hearing.

MR. RUBENSTEIN: Thank you.

I think you are doing a very significant job, and my voluntary participation, I hope, will help you to reform the necessary laws on campaign financing. I will do my best for you.

THE CHAIRMAN: Thank you.

Ms. Cushman.

MS. CUSHMAN: Good afternoon. We are running a little bit late and rather than going into great detail about your background -- I know you have been waiting beyond your scheduled time -- so I'm going to try to move quickly past your areas
of background and assume a general familiarity with your background by the people in the room today.

Describe the nature of your current business, please.

MR. RUBENSTEIN: I am President of Howard Rubenstein Associates, a public relations company in Manhattan. We have approximately 115 employees and represent, probably, over 300 clients.

I have been in business for thirty-four years, starting as a one-man Brooklyn based operation with my first account paying me $100 a month.

MS. CUSHMAN: And does your firm also get involved in lobbying, as well as public relations?

MR. RUBENSTEIN: Our firm is a registered lobbyist in New York City and State.

MS. CUSHMAN: As between lobbying and your public relations activities, which is the dominant and by roughly what proportion?

MR. RUBENSTEIN: The public relations component is, by far, the largest, and accounts for about ninety-four -- ninety some-odd percent of my total business.

MS. CUSHMAN: And in the course of your
became Mayor, he would call me frequently, and I was one of his non-paid advisors for those four years.

MS. CUSHMAN: After that time, were you involved in any way with contacts with government or advising governmental officials?

MR. RUBENSTEIN: Far less in depth than the Abe Beame administration. All through those prior years, I had known many of the public officials. I had known Mayor Koch since the '70's, Mario Cuomo, for many years. Many of the public officials who now hold office.

I went back for many years. From time to time they would call me and just chat with me about public relations issues.

MS. CUSHMAN: So, your contacts in the world of government and public life are quite extensive, is that correct?

MR. RUBENSTEIN: I have extensive knowledge of governments, I believe. I am interested in New York, it is the only place I have an office.

Most of the other public relations firms have offices all over. This is my home, I owe it a great deal, and I am interested in government and
politics.

MS. CUSHMAN: Let us talk for a little bit about the business of lobbying, and I would like to start, if you will permit me, with asking you to discuss what lobbying activities are, not in the sense of legal definitions, of registration, et cetera, but what, in a common sense way, what lobbying activities consist of.

MR. RUBENSTEIN: In simple form, I believe any attempt by an individual or a lobbyist to influence the actions of a board of estimate, or city council or any of the agencies. I look at that broad definition as wide-ranging. I look at it in a broader way than most, I think.

Any appearance, any discussion, calling upon them to do things that require legislation or a hearing, or a judgment on rates, anything like that, would constitute lobbying, to me.

MS. CUSHMAN: Does this include contacts with government officials within city agencies who make discretionary decisions?

MR. RUBENSTEIN: Yes, I certainly would include that, and community planning boards, as well.

MS. CUSHMAN: Now, there came a time when
Rubenstein

New York City passed a form of lobbying disclosure law and then somewhat more recently, developed a broader and more comprehensive lobbying disclosure law.

Can you describe, briefly, your understanding of what the requirements of that law are?

MR. RUBENSTEIN: Of the new one?

MS. CUSHMAN: Of the new one.

MR. RUBENSTEIN: The new disclosure?

MS. CUSHMAN: Yes.

MR. RUBENSTEIN: The new disclosure went further than the original law which I found to be somewhat sketchy. The new law now requires virtually everybody to register. Under the old law, if I am correct, many of the lawyers did not consider themselves covered under the law. Under the present law, I believe they are.

So, I think it includes more representation now than in the past.

Now, the law requires, currently requires quarterly filing and annual filing, and it requires you to list, at the beginning, who you anticipate lobbying. Not necessarily that you might do that, but who you anticipate lobbying before, what are
the subjects, in a generalized way, if you know it.

Very often you might not know what you might be called to lobby on. And in the quarterly reports they require who you saw and the general subject matter, who you spoke to. Not only saw directly, but who you spoke to, and the general subject matter that was covered.

On the annual, they require the names of the people working for you, or the company, in my case, who can be anticipated to lobby.

In each quarter, you have to list the person or persons that actually participated in the lobbying.

MS. CUSHMAN: Now, talking about this new law, have you discussed the provisions of this new law with other people who are in the lobbying business?

MR. RUBENSTEIN: Yes, I have.

MS. CUSHMAN: And is there a general consensus that the lobbying law covers all the different kinds of activities that you have described in a common sense way lobbying consists of, or is there some ambiguity in the law?

MR. RUBENSTEIN: Some of the lawyers with whom I have talked about it feel, or felt that
because of lawyer-client relationships, they might not have to -- they shouldn't have to register, and some did under protest.

Some balked at the registration, but all of them that I know did it. Some expressed their reservations about it. Generally, however, I they're in favor of the lobbying law.

MS. CUSHMAN: What about architects or other professionals who might be involved in the land use, or the planning process, or who might have occasion to have contact with City agencies in that connection?

MR. RUBENSTEIN: In my opinion, anyone who appears before government as an advocate for a position requiring those kinds of actions, should be required to register.

I think lobbying should be conducted under complete sunshine, I see no reason to exclude people because of their professional status that might be different from lawyer or public relations person or something else.

It might be complicated, but if they -- if they, for example, simply draw plans, and never appeared, I would think probably they should not
be required to register.

If they go and make a presentation to an agency, attend, and they are an advocate, they are doing the same thing that a public relations is with a different skill involved, the same thing as a lawyer with a different skill.

I would urge all of them to register.

MS. CUSHMAN: Is this for disclosure, the philosophy which you endeavor to implement in your own business?

MR. RUBENSTEIN: Well, I certainly do. A condition of employment in my office is that any person who comes to work for me, and I have about sixty account executives, sixty, they have to sign a letter of understanding, spelling out the terms of their employment.

One of the terms that they have to sign is that they have read the lobbying law, and they will adhere to it.

If they don't sign that, they don't receive employment at my office.

Then the way we comply -- I guess that is what you are asking about?

MS. CUSHMAN: I would like to ask you this:
I understand that you have set up some kind of
a compliance program, some kind of system to try
to insure that all of these different individuals
connected with your office, and who might be lobby-
ing, do, in fact, comply with the law?

MR. RUBENSTEIN: Yes.

MS. CUSHMAN: Can you describe that to us?

MR. RUBENSTEIN: It is a difficult process if
you have as many employees as we have. What we
did was, I designated a compliance officer, one
person in charge of that, that is, a professional
public relations person. Each person receives a
copy of the law, the laws, the City and State
lobbying laws, when they join my office. We have
a book that they get.

They meet individually with my compliance
officer who explains the law in layman's language.
Then they receive a form that they keep at their
desk and then they fill it in, and then they turn
it over at the end of each quarter to the compliance
officer to transfers the information to our lobby-
ing forms.

During the quarterly period, and at the end,
the compliance officer meets and advises those
people to be on the lookout for anything that can constitute lobbying.

So, I think we make a major effort.

(Continued on next page.)
MS. CUSHMAN: Do you find this effort particularly burdensome?

MR. RUBENSTEIN: It's very time consuming, but in view of the desired result of complete disclosure, I'm an advocate of that, and I try not to -- and I try to encourage that rather than discourage it. I think it's appropriate.

MS. CUSHMAN: Within the context of a law firm, the clients who have conflicting interests or who are on two sides of a particular issue are sometimes screened from each other or perhaps not even represented by the same law firm. Do you have any mechanisms in your office that are designed to prevent conflicts of interest, or do you function differently?

MR. RUBENSTEIN: Well, I will not lobby two sides of any issue at the same time, you know. I would think that that is not only unethical but illegal, at least I treat it that way.

So, in a number of these instances when clients are competing for different things I step back entirely from the lobbying issue and say, basically, you're on your own and do you own lobbying or your lawyers will do your lobbying.
I think that's important, and I try to keep my eye on that very carefully.

MS. CUSHMAN: When you have a client for whom you are performing, simultaneously, public relations services and also sometimes -- or perhaps in the future will perform lobbying services, how do you deal with that in your retainer agreement and your registration statement?

MR. RUBENSTEIN: At the beginning of the relationship with my clients, if the issue of lobbying -- even though they may not call it lobbying -- some don't really realize what they are talking about is lobbying, and in most instances I'll meet the client.

In some instances, some of my staff will meet the client and I won't. But they are experienced people too. If the issue of lobbying in any form comes up, we pursue that discussion and then we tell them right at the beginning, if there is a chance for lobbying, not necessarily now, but any time during that year, if there's a chance for lobbying, we will register, we will tell them we think it's quite appropriate, we show them the law, usually, or tell them about the law, and we
allocate a portion of the overall fee towards lobbying, and then we sign a letter of agreement with them or they sign it with us, I register that with the City, as is required, and then we might go a year and not actually lobby, and yet I'm registered as a precaution.

I don't know if others do that, but I find that if lobbying is contemplated, that's sufficient, for me to register.

MS. CUSHMAN: When we were reviewing your registration forms, we noticed that for each of your different clients, the fees tended to be reflected in round numbers, sometimes $1,000 a month, sometimes $2,000 a month, sometimes $3,000 a month.

MR. RUBENSTEIN: Right.

MS. CUSHMAN: Does that reflect a direct correlation between the amount of time you might spend lobbying for a particular client, or is it simply a rough multiple, if you anticipate serious lobbying you're going to charge more, or if you're doing it as a precautionary measure, you're going to allocate less?

MR. RUBENSTEIN: We don't work on an hourly basis,
as most law firms do. I would say virtually
all of our fees, because I don't remember any
hourly fees, are on a monthly retainer, and I
try to estimate the effort that might go into
the lobbying and then allocate a portion of
that fee accordingly.

So, it would be an allocation and an estimate,
only.

MS. CUSHMAN: I would like to turn to another
subject for a minute, which is fundraising for
political campaigns, and we've noticed and, of
course, it has been observed in testimony before
us, that you have participated somewhat actively
in fundraising for different public officials in
their campaigns for elective office.

Talking first about the Mayor, could you
please describe your activities in connection with
his fundraising efforts and how you got into them?

MR. RUBENSTEIN: Yes. First, as I mentioned, I
know the Mayor for quite a while, and I have a
great deal of respect for him, and even though
I've opposed him in the Abe Beame campaign, I
was on the other side, I felt that he would be
good for the City.
So, my motivation in participating in his fundraising was that he would be a good Mayor for New York and, in fact, he helped bring back the City from a terrible fiscal disaster.

I was involved in that disaster, not the cause, but a participant, and I welcomed somebody that could protect New York so effectively and bring it back from a terrible image.

Now, in direct answer to your question, generally what would happen is, you would get a call from somebody in their fundraising apparatus, the Event Associate --

MS. CUSHMAN: When you say you would, I take it you would, yourself.

MR. RUBENSTEIN: Either me or my secretary. It didn't necessarily have to be me -- inviting me to a luncheon or a breakfast or some limited function, limited in terms of numbers of invited, usually a breakfast.

I remember going to several of them. First there was coffee and a lot of schmoozing, and then a formal -- and then breakfast. They would then make a presentation. I think it was Larry Mandliker who made one or two that I remember, but whoever
Rubenstein

headed the Finance Committee would make a presentation, and David Garth, who has been his excellent public relations advisor, would talk about how expense campaigns are, how much television costs and how great the Mayor is, and did a very good and effective job, and then the Mayor would talk.

I may be out of order somewhat, but, roughly, this is it. And then, the Mayor would speak and he would tell about his vision for New York, and he was one terrific speaker. And then somebody, perhaps the Chairman of the Fundraising Campaign, would get up and ask us if we would -- we being forty, fifty, sixty people in the room -- would agree to serve on his Fundraising Committee, Finance Fundraising Committee.

They would give us a package of material and a card or a form to sign giving them permission to use our name.

MS. CUSHMAN: And a list of who is on the Dinner Committee?

MR. RUBENSTEIN: And a mimeographed list of who else was on the Committee, and I signed those consent forms, and that was the beginning of his fundraising
campaigns.

MS. CUSHMAN: What did you then do with the package of materials that were provided to you? By that, I specifically am referring to the invitations and the requests for purchases of seats at the dinners.

MR. RUBENSTEIN: Right. I would give some to some of my staff and say, if you think that any of our clients might be interested, why don't you give them to them, and I gave them to clients that I was working with or am working with. I gave them to some friends. And, that's what we did.

MS. CUSHMAN: Did you have any practice, or was there any common occurrence with respect to how these invitations or the checks with the responses to the invitations would be returned to the Campaign Committee?

MR. RUBENSTEIN: It was somewhat haphazard. My office would put my business card on it or a note on it, "Hope you could attend," or, "Perhaps you want to attend," and then give them out. Some of our clients would send them back to me, back to my office. Some would send them directly in to
Rubenstein

Event Associates, I believe. There was a mixture.

MS. CUSHMAN: What would account for someone or any number of clients returning the invitations and the checks to yourself?

MR. RUBENSTEIN: Well, the dinners that we were sending those invitations out for are big celebrity affairs. They had a ringside -- ringside tables, I think they called them, and those were pretty expensive.

MS. CUSHMAN: Sounds like a fight.

MR. RUBENSTEIN: No. I know my clients really liked the celebrity attitude or feeling of that. It's like when you go to a Broadway theater, you like to sit in the first few rows center. They really enjoyed sitting at good ringside seats. There were bad ringside seats and there were good ringside seats.

So, some of them would send their cards back, their reservation cards back to me and say, look, get us a good seat, put us in a nice place.

So that was one of the motivations, I think, for sending them back to me.

MS. CUSHMAN: Was it a surprise for them then to be associated with you at that event or any other
event?

MR. RUBENSTEIN: These are friends and clients of mine. I've had some of my clients for thirty years and I've had some of my clients for twenty years, fifteen years. They are people that know me well and I know them well. It was a very relaxed invitation where they could or could not participate.

MS. CUSHMAN: Many of these people who have been your clients or who are your clients are also people who have a substantial amount of business with the City, and, indeed, among them are some of the people on whose behalf you've lobbied with the City; isn't that right?

MR. RUBENSTEIN: Yes, some of those who got the invitation have substantial business.

MS. CUSHMAN: Did you have any policy in your former years about sending these kind of invitations only to people who did not do business with the City or selecting people who did do business with the City?

MR. RUBENSTEIN: I had no policy at all. I tried to think of people who might like to go to those dinners.
MS. CUSHMAN: And in some cases, it certainly was those who had business with the City; isn't that right?

MR. RUBENSTEIN: Yes, in some cases, that's true.

MS. CUSHMAN: Aside from your role as a solicitor of people to go to the annual dinner or the big dinners, did you have any other role in fundraising for the Mayor?

MR. RUBENSTEIN: For the Mayor?

MS. CUSHMAN: Yes.

MR. RUBENSTEIN: Yes, to the best of my recollection, I -- my wife and I had a cocktail party at our home, I don't recall the year, but we had a cocktail party at my home, and I invited thirty or so guests of the same quality or character that I described before, friends and business clients to my home for cocktails and, certainly, there were contributions that were made to the Mayor's Campaign Committee.

MS. CUSHMAN: Are there other public officials whose campaigns you've also supported in one way or another and actually raised funds for?

MR. RUBENSTEIN: I've raised some funds for David Dinkins and David and I have been friends for -- since 1973, and I'm a very strong advocate of him and
his candidacy. If not for the position I'm now taking, I would love to raise more money for him, but that won't be.

At any rate, David Dinkins is one -- I'm having trouble identifying which ones, but -- Tom Cuite was another, one of my early clients.

You would have to ask a question specifically for me to go beyond that.

MS. CUSHMAN: But you do recall being a sort of -- I don't want to choose a loaded word -- but a go-between --

MR. RUBENSTEIN: I'll deny it. Say it again. I didn't hear you.

MS. CUSHMAN: A person in between with respect to fundraising for one or for a variety of public officials?

MR. RUBENSTEIN: I don't accept that as a description of my role. What I've done is, that people who I really like as candidates and I really like to see in public office, I would say, perhaps you may use my name on your committee, as I do for many charities. I've run more things for charities than I do for anything else. I would let them use my name. I would contribute to them. I've contributed funds over the
years. But I really don't look at myself as the man in the middle. I don't accept that.

MS. CUSHMAN: Have clients, from time to time, asked your advice as to whether they should contribute generally or to a particular candidate?

MR. RUBENSTEIN: Clients from time to time certainly have asked me my opinion.

MS. CUSHMAN: And what have you told them?

MR. RUBENSTEIN: What I thought they were seeking is my evaluation of the candidate's strengths and value to New York, and they know that I've had a lot of experience, as I described, so I think they feel that I can give them a good opinion, and I do.

MS. CUSHMAN: What about the notion of whether or not it would be helpful to the clients to make political contributions generally, as a practice?

MR. RUBENSTEIN: I don't know if they pose the question that way, but my opinion is that there are some candidates who are excellent for New York. Take David Dinkins, for example. If someone would say, "Is it good to give to David Dinkins?", I thought it was essentially that we have a black, bright, competent person on the Board of Estimate, and that question was asked of me a number of times.
Rubenstein

That's a person I would give an unqualified position to.

There are others that I would do the same for, so my evaluation is based on, "Is it good for our City?"

MS. CUSHMAN: I think that the notion that I'm trying to get at is, rather, is it viewed by your business clients, or did they suggest to you that their request for advice along this line -- that they were asking for advice about whether it would be helpful to their achieving their objectives for which they had hired you as a lobbyist if they were to give political contributions?

MR. RUBENSTEIN: To the best of my recollection, the relationship of lobbying and fundraising in my business and in my professional career does not exist. I did not nor do I look at fundraising and lobbying as inter-related.

MS. CUSHMAN: Now, we have been talking about your fundraising activity pretty much in the past sense, and there is a reason for that which is reflected in Exhibit 21 which we -- it is located in the black book.

MR. RUBENSTEIN: I have a copy.
Rubenstein

MS. CUSHMAN: We have it as a magnified exhibit.

MR. RUBENSTEIN: It is like my xerox machine.

MS. CUSHMAN: This is a letter which is dated April 7th, 1988 to Mr. Lawrence Kirwan, who is the Chairman of the New York State Democratic Committee, and it is signed by yourself. It is a response, is it not, to a request that you serve on the Dinner Committee for the State Democratic Party in a fund-raising event for them?

MR. RUBENSTEIN: That is correct.

MS. CUSHMAN: Can you -- in this letter you describe your own personal decision to refrain in the future from fundraising activities on behalf of any candidate or entity supporting any candidates, and you go on to say that you have decided to support legislation that would bar lobbyists from raising funds for any officials or legislative bodies for whom they may appear.

MR. RUBENSTEIN: Yes.

MS. CUSHMAN: Can you tell us what the background was to your decision to refrain from this kind of fundraising?

MR. RUBENSTEIN: Two, two and a half years
Rubenstein

ago Fran Leitner called me and asked me to serve on his committee that would establish limits or caps on campaign contributions. I agreed, and I called some of the other people that he had mentioned, and a few of them agreed to serve on that committee. That was the genesis of my serious consideration of the subject matter.

MS. CUSHMAN: How did you --

MR. RUBENSTEIN: I called some lobbyists. Then it was at rest in my mind, I really did not pay much attention to it.

Recently, this letter came to me March 29, I had been following the media very carefully, I had been listening to the public opinion that I had been hearing or seeking out, I had been talking to people, a lot of people, about the subject matter, and I came to a conclusion that this appearance, not the substantive fact, but the appearance of a lobbyist raising money, substantial or otherwise, for people before whom they appear, was not appropriate.

I found that it was the appearance or the image that was created. I am a person who deals with images, it was perhaps unfair, it was unwarranted,
Rubenstein

perhaps overdone, but it was there, that appearance that perhaps the lobbyist was gaining an undue advantage, or a position that was perhaps not in the public interest. That was the perception.

The way I have been functioning in my business is I didn't believe that. I don't believe that that is what I received, an undue, or an unfair advantage, simply because I have had such a fine relationship with people in government for so many years. It was irrelevant to me, almost. And I didn't focus on it.

Recently I focused on it, and I think that it will be important for you, and whether you do it or not I have taken my stand, that a lobbyist, and my company -- not my company, but me as a lobbyist, I will not raise money for any public official before I may appear, nor will I raise money for the Democratic Party as they requested.

Now, that was a hard decision in a way, because they were honoring my very, very good friend, the former speaker, Stanley Steingut.

One of his sons called me and said, can I help on the dinner. I said, I hate to tell you this, but
Rubenstein

I have made my decision, and I am not.

So, from a personal standpoint it was painful. From my decision-making it was irrevocable. That is where I stand on fundraising.

MS. CUSHMAN: Have you discussed this with other lobbyists, other people in this business?

MR. RUBENSTEIN: Yes, I have.

MS. CUSHMAN: And do they concur with your conclusion in this regard?

MR. RUBENSTEIN: It varies.

Some have told me they can back it, some said they wouldn't resist it, some gave me no answer. But, my guess is that if you got a public information effort you can get A, either voluntary compliance; or B, a law passed, because while the lobbying law encourages lobbying, that is in the preface of the State Law anyway, and while it calls for complete disclosure, what it doesn't say is you really have to try to keep the competence of the public and government in the process.

I think strengthening this image this way is good for the process. I think these public officials suffer by having lobbyists raise money
for them. They might not agree with me, but that is my point of view.

MS. CUSHMAN: What about the employees in your firm, the account executives who have dealings both with government agencies and also with your clients?

MR. RUBENSTEIN: That will apply to them as well.

The reason I cut the distinction before is I remembered in your other testimony Howard Rubenstein and Associates is a fundraising entity. It is not. So, I didn't want to leave the impression of that. But no employee of mine will be permitted to raise money as I have just said.

MS. CUSHMAN: Does that include raising money by soliciting people who are simply friends and associates and contacts, independent of the work environment?

MR. RUBENSTEIN: It includes soliciting everyone. We have so many clients who have nothing to do with lobbying, yet they're participants in government. Yo saw that, they're participants in government in that they really are interested in New York.
Rubenstein

I don't intend going to them, I don't intend going to anybody as a solicitor or an investor of funds for any public official before I might appear.

MS. CUSHMAN: Have you informed other people in public life, aside from Mr. Kirwan, of your decision in this regard?

MR. RUBENSTEIN: Yes.

MS. CUSHMAN: What has been the response?

MR. RUBENSTEIN: They say they understand it. I am getting a good response.

When you ask them to step back and look at the ethics, the appearance of the ethics involved, I don't know how you could probably say that I am wrong. It just makes common sense.

The unfortunate part, as far as I am concerned, is I didn't think about doing it earlier because maybe I would have had a greater impact.

MS. CUSHMAN: Mr. Chairman, I have no further questions.

THE CHAIRMAN: I have no further questions.

Commissioner Emery.

COMMISSIONER EMMERY: I want to commend you on your position. I think it has been admirable, it
involves a great deal of self-sacrifice, but I think it is self-sacrifice that is consistent with your high standards. I quite frankly am very happy that you are going out and doing a little proselytizing in this area. I think ultimately a mores, or a voluntary compliance, is going to be much more effective than anything we can do.

I think there is some substantial problems that we are going to have to wrestle with in making recommendations. I think we might be able to do that, I hope we will be able to do it, it is something for us to discuss.

I think the voluntary compliance is very important.

MR. RUBENSTEIN: What I will volunteer to do today, and I won't have to register because you are a government agency, is try to help you at least on that portion of your effort on financing, campaign financing.

What I think you can do on your entire program is gain the adherence and support of third parties, and they don't have to be the so-called reformers who are always up front on those campaigns.
Rubenstein

There are many groups, many of which we represent, that if the thing were presented to them, and I don't mean lobbyists raising money, just the basic issues of public funding, caps, however you come up with it, if you made those presentations in a non-confrontational way to the leadership of New York, you will get their backing.

If I can be of help to you, we will have lots of clients that I will be glad to talk about that, and I will.

THE CHAIRMAN: Commissioner Magavern.

COMMISSIONER MAGAVERN: This question is not directed at any of your activities past or present, but we have heard a lot today about the problem being one of perception by the public, the links between fundraising and government are unwholesome.

My question is: Without reference to any specific case, certainly not with reference to any of your own activities, do you feel that there is a risk that when you have those things that that perception may be justified, the public might be right that there may be at times an undue influence, maybe even a suitable influence at times in some cases?
MR. RUBENSTEIN: I really don't know because I know how I function, and the perception sometimes is as important as that reality. Then what happens is you read cases like you mentioned Wedtech, Attorney General Meese, all these other things. After a while the public jumbles it into one messy situation, and you can't distinguish it. I really can't distinguish it. Anything is possible in the political environment as you see it unfolding in the last two and a half years. Things have unfolded that you probably couldn't have predicted.

What you really have to do, I think, is proselytize, and then get a law that is at least reasonable and can work because somewhere along the lines somebody will think what you said, somebody will think that.

COMMISSIONER MAGAVERN: My point is, if we saw the problem only as one that the public is somehow misinformed, I suppose someone might think well, what you ought to do is educate the public, nothing is ever wrong. Yet, I think we may all sense that is not an adequate answer, that we have to establish safeguards so that something, in fact,
MR. RUBENSTEIN: I agree with you. Just the thinking that the public perception is wrong, and you have to credit the public with a lot, you can't say that that perception is wrong, it is a perception, and it is part of our democratic process of perceiving things.

I think you need a strong law. I am really in favor of the public financing, and if you don't do that, I am in favor of eliminating the corporate contributions entirely, cut them out. Just cut them out. Put a cap if you can't do total financing, put a cap on what everyone can give. I have imposed my own cap. You saw my contributions.

For a few years now, I have had a small cap on my own contributions. That is my opinion.

THE CHAIRMAN: Peter Bienstock.

MR. BIENSTOCK: Mr. Rubenstein, I'm interested in what you said about the combining of your work, of the public relations functions and the lobbying functions.

I take it that there are public relations firms in this town who also do lobbying work and that they are hired for the full package, if you will; is that
MR. RUBENSTEIN: I'm sure that's true.

MR. BIENSTOCK: Now, take a process which involves elaborate governmental approvals, take a process, just for argument sake, the ULURP process; have you been involved in that process?

MR. RUBENSTEIN: Yes, peripherally, though. I've observed it quite extensively.

MR. BIENSTOCK: Are there firms that are retained that do both public relations and lobbying through that process?

MR. RUBENSTEIN: The Community Board work, and so forth. I'm sure there are.

MR. BIENSTOCK: My question really is: Isn't it a package, whether from the public relations end of it or the lobbying end of it, to have the client show up at the fundraisers for the local officials, whether it be a member of the Board of Estimate, City Council, some kind of assemblyperson, so that from the public relations point of view, the image of the client is one of being in the community, isn't it part of the package to show up at fundraisers?

MR. RUBENSTEIN: I can't accept that that's...
MR. BIENSTOCK: I wasn't particularly referring to your business.

MR. RUBENSTEIN: Thank you.

MR. BIENSTOCK: I was referring more to the mores of the profession.

MR. RUBENSTEIN: The public relations people that I know in New York are really competent, the ones I know. They often come from the newspaper environment, they worked for newspapers, television. Some have been in government. The ones I know and that, probably, you have interviewed, are ethical and very good at what they do, and they realize that a good image is very important to the success of their client.

For example, there have been -- there's one developer that was under very bad attack for -- he's not a client of mine -- for tearing down some buildings illegally.

MR. BIENSTOCK: Down the block.

MR. RUBENSTEIN: On 44th, that's right. And I don't know if he is a contributor or not, and he's successful. He has a long way to go to repair his image, a long way. And there are others that lean over backwards to be responsive to a client. That
going to continue to render that. Fundraising to me is only a minuscule part of everything. I lose nothing. Even though you mentioned that I might, I don't think that I lose anything, and I don't think the public official loses anything. I think the public official who backs this position gains. He'll gain in the perception that he understands, and that's really important to me.

THE CHAIRMAN: Thank you very much.

MR. RUBENSTEIN: Thank you.

THE CHAIRMAN: The hearing is concluded.

(Time noted: 4:15 o'clock p.m.)

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