Hearing on Campaign Finance Practices of Citywide and Statewide Officials

New York State Commission on Government Integrity

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HEARING ON CAMPAIGN FINANCE PRACTICES OF CITYWIDE AND STATEWIDE OFFICIALS
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STATE OF NEW YORK
COMMISSION OF GOVERNMENT INTEGRITY

HEARING ON CAMPAIGN FINANCE PRACTICES
OF CITYWIDE AND STATEWIDE OFFICIALS

New York County
Trial Lawyers Association
14 Vesey Street
New York, New York

March 15, 1988
9:20 A.M.

BEFORE: JOHN D. FEERICK, CHAIRMAN
PANEL:

KEVIN J. O'BRIEN
RICHARD D. EMERY
PETER BIENSTOCK
PATRICIA M. HYNES
JAMES L. MAGAVERN
NICOLE A. GORDON
THOMAS J. SCHWARZ
JUDGE BERNARD S. MEYER

ALSO PRESENT:

CONSTANCE CUSHMAN, ESQ.,
ALEXANDRA LOWE, ESQ.,
G. MICHAEL BELLINGER, ESQ.,
DONALD MOUSTED, ESQ.,
THOMAS McSHANE, ESQ.,
ROBIN SHANUS, ESQ.,
LAURIE LINTON, ESQ.,
EXAMINATION BY MS. LINTON:

Q. Good morning, Mr. Tenenini. By whom are you currently employed?
A. The Office of General Services.
Q. For how long have you been at OGS?
A. Since June of '87.
Q. Where were you employed prior to that?
A. Prior to that, I was at the State Board of Elections.
Q. For how long were you at the State Board of Elections?
A. I believe approximately three and a half years.
Q. And what position did you hold at the State Board?
A. When I left, associate accountant.
Q. And prior to that?
A. Senior accountant.
Q. You were in which division of the State Board?
A. The Bureau of Election Law Enforcement, and I worked in the audit unit.
Q. Mr. Tenenini, prior to starting to work at the State Board, were you at all familiar
with the various requirements of the State election law with respect to contribution limitations and financial disclosure statements?

A. No, I was not.

Q. Subsequently, have you become aware of such requirements?

A. Yes.

Q. How did you become aware of them?

A. When I got to the board, I grabbed the election law, and Article 14 within the election law, which was campaign receipts and expenditures, and reviewed it and became familiar with the provisions contained therein, and that's how I learned.

Q. During your tenure at the board, did you become familiar with the board's procedures for handling and processing of financial disclosure statements?

A. Yes, I did.

Q. In fact, were you responsible for certain of those procedures?

A. Yes, I was.

Q. What I would like to discuss with you is exactly what those procedures are for handling
and processing such forms. When the board receives a financial disclosure statement, what essentially is the first step?

A. When we open a mailing, we have received a financial disclosure statement, it's stamped in as received, and a clerk will review the face of the statement, she will review the committee name or candidate name and then go to an active list and determine if it's an active candidate or a committee currently registered with the board. If it is, they make a note to reflect the actual number.

She will check the filing date to see which filing they are in fact filing, and she will look at the signature to determine whether the treasurer has signed it or not, even though that's not a requirement, if even though it's not a requirement, if someone other than the treasurer, if someone signs it a treasurer she ensures that that is in fact the treasurer of the committee.

Q. That's done by which department of the board?

A. The audit committee.
Q. Is any other information done initially when the form is received by the board?
A. Not at that point. It's then passed on to the EDP units after it's been coded.
Q. What's the EDP unit?
A. Electronic data processing unit.
Q. What do they do?
A. They will keep the filling in as received, and a copy, two copies will be made of it, one which is sent to the public viewing, and the other which is given back to the EDP group and one of their data entry machine operators would then key in the summary data on I believe it's pages 3 and 4 of the financial disclosure statement.
Q. Could you tell us what is included in the summary data of the statement?
A. Lines 1 through 7 are receipt and expenditure information on the form.
Q. That's total receipts and expenditures?
A. Yes. And lines 8 through 14 is loan information, which is on the form, regarding loans received by the candidate or committee.
CHAIRMAN FEERICK: Can I ask the witness just if you could just go a little slower in your testimony. I think it will help the reporter.

Q. Lines 15 through 21, liability or unpaid billing information on the form.

Q. Again that's total compilations?

A. Yes, this is all summary data and lines 22 through 24 are contribution, summary contribution information. Lines 25 through 31 are summary expenditure information.

Q. And this information is all input into the computer?

A. Into the computer at that time, as received, unaudited.

Q. But that's summary information, that does not include recordings of individual contributions or expenditures?

A. No.

Q. After this information is keyed into the computer by what you have called your FDP, what's the next step, what next happens to that form?

A. A computer report is generated which
lists any discrepancies on the reports, whether it be an addition or carry forward balances from previous reports. At that point, it is attached to the back of the report, the report is submitted to the audit committee for further financial review.

Q. Submitted to the audit units?
A. Yes.

Q. And what does the audit unit do with these reports?
A. They basically foot it, add the records, and add the schedule information, the detail information which is posted to the summary information on the report.

Q. When you say they add the information, you're saying they essentially check the arithmetic?
A. Yes, the arithmetic.

Q. And this is done by your audit department. Who is in your audit department who does this?
A. We have a senior clerk, two account clerks, and when I was there, we had a senior accountant and I was the associate accountant.
Q. You said an account clerk. Are these accountants?

A. No, they are account clerks.

Q. Now, this audit that they perform --

A. Was a financial review, as opposed to an audit. It was a desk audit. No independent verification.

Q. What is done with this desk audit?

A. It's simply as you said adding the arithmetic on each schedule and insuring that the total is accurate. We did some other -- we insured compliance with some of the other provision within article 14, such as the thousand dollars. If there was a contribution in excess of a thousand dollars, made between the last pregeneral or preprimary filing and prior to election date, if we found that on the 27 date post general or ten-day post primary report, I would bring that to the attention of my supervisor.

Q. So now you stated that you have information keyed into the computer and you have this desk audit which checks the arithmetic and the facial correctness of the forms.
Is that done with that desk audit, at this point?

A. Then we would generate, we would have the computer generate a letter which would go back to the candidate or committee requesting correction of the errors or discrepancies.

Q. And if you did not receive corrections?

A. If we did not receive corrections, we gave them a two-week grace period, then we would send a follow-up letter to them, asking them again for those corrections.

Q. What if you still did not receive corrections?

A. At that point I had compiled a list, which I provided to Mr. Wallace, Thomas Wallace, the executive director of the agency of candidates and committees that had not answered our correspondence and provided us with the appropriate documentation.

Q. And what happened with that list?

A. Well, I was told by Mr. Wallace that we were not going to proceed any further with it. That we could -- because I had requested
that we obtain a court order, which the law allows us to do, the election law allows us to do to maintain that these candidates or treasurers of committees file the appropriate documentation.

Q. I think you made a statement to the effect that there was no independent verification done of the information received on the disclosure statements; is that correct?

A. Yes. We did never did field audits except upon complaint.

Q. Did you ever make a recommendation that such field audits be conducted?

A. Yes, I did.

Q. What happened?

A. I was told by my supervisor that we didn't do field audits unless there was a complaint.

Q. Who was your field supervisor?

A. Frank D. Polsinello.

Q. Mr. Tenenini, what else is done with the information received on the financial disclosure statements, for example, with respect to corporate contributions?

A. We maintained an index card file of
corporate contributions by corporation, from the financial disclosure statements, the schedule 2-A, which is the contribution schedule.

Q. Could you describe that index card file for us?

A. It was alphabetical listing of corporations and all contributions received in calendar year. Naturally we only had access to State committees, and so we could only get information from the states that were required to be filed with us.

Q. So in other words, what you are saying is, for example, you could capture information with respect to corporations that filed -- that made contributions to committees that filed with the State?

A. With the State Board, yes.

Q. But if someone had made a contribution to one committee that filed with the State and to another committee which did not filed with the State, you would not have that information?

A. No, I would not unless there was a complaint to that effect, then we would have obtained them from the appropriate Board of
Elections.

Q. Mr. Tenenini, who was responsible for compiling these index cards?

A. The account clerks to monitored the financial reviews.

Q. Was it this information ever put into the computer?

A. No, it was not. They were developing a computer program when I was in the process of leaving the agency. I don't know what the status of that is.

Q. What would happen in cases where you did find that a corporation had made a contribution in excess of its limits?

A. I would report that contribution or those contributions to my supervisor.

Q. Who you stated was Mr. Polsinello?

A. Yes.

Q. And what happened happen after that, do you know?

A. I was never told of anything that happened after that.

Q. You have told what the board does with respect to corporate contributions, does the
board do any sort of analysis of individual contributions?

A. No. Not unless something jumped off the page. If it was one contribution that we knew was over the limit, because we had the individual limits for each office. If there was one contribution made that was in excess of the limit, then I would verify that and report the various corporate contributions to my supervisor.

Q. But for example, if one were to inquire of the board how much a particular individual gave to a specific candidate or committee or how much that individual gave in the aggregate, over the course of a certain period of time, would the board be able to answer that question?

A. Not immediately, no.

Q. Did you do anything with respect to information about contributions from partnerships?

A. Contributions from partnerships same thing, it's a contribution from an individual, because a contribution from a partnership has to be prorated among the individual partners.
Usually in accordance with their profit loss ratio, in a partnership.

Q. Did you check to make sure that partnership contributions were properly allocated?

A. No, we did not.

Q. Mr. Tenenini, to what extent does the State Board communicate or share its information with the various local Boards of Elections?

A. Upon request.

Q. But is this any sort of practice of sharing information?

A. Regarding financial disclosure?

Q. Correct.

A. Not that I am aware of. We provide them with financial forms when they need them.

Q. Now, you have testified about the various procedures in place at the State Board with respect to, for example, corporate contribution. Do you know whether the local Boards of Elections have similar systems in place?

A. No, I am not aware if they do or they don't, I can't say.
Q. Mr. Tenenini, are you at all familiar with the computer system at the State Board of Elections?

A. Yes.

Q. Do you know was there ever an effort made by the board to computerize all the information captured on the financial disclosure statements?

A. I know there was an effort to key individual contributions into the computer many years ago, I believe very close to after inception of the board in 1784.

Q. Do you know what happened with that information?

A. This is, I can only say what I heard.

Q. Tell us what you know.

A. What I heard was they programmed it in, they keyed the information in, and they didn't like some of the names coming out as far as contributions from excess individuals, so they stopped the practice and it was stopped.

Q. Mr. Tenenini, during your tenure at the board, did you make any suggestions or recommendations for any changes or innovations
with respect to how information is recorded by
the board or made accessible to the public?
A. Yes, I did.
Q. Could you please describe those for
us?
A. Well, we had one of the staff on the
region, Jim Lane, he was a liaison with the EDP
section, and he developed some programs which
would elicit some good information from the
computer regarding contributions to different
offices, such as Senate, and Assembly, and those
offices, along the party lines, Democratic and
Republican.
Q. When was this done?
A. This was done, I believe in, I would
guess June of '86.
Q. And what happened to this information?
A. It was presented to Mr. Polsinello,
saying that this might be useful information to
provide to the public. It also provided
incumbent information, contributions received by
incumbent as opposed to the individuals running
against them. And nothing, from what -- to the
best of my knowledge, nothing was ever done with
that information, as far as disseminating it to
the public.

MS. LINTON: Thank you very much,
Mr. Chairman.

CHAIRMAN FEERICK: Thank you very
much.

(The witness left the witness stand.)

CHAIRMAN FEERICK: Mr. Tenenini, could
you return for a few questions.

(The witness returned to the witness
stand.)

CHAIRMAN FEERICK: I recognize
Commissioner Emery.

MR. EMERY: I was going to defer to
Commissioner Magavern.

MR. MAGAVERN: I would like to ask
you, Mr. Tenenini, if you will, if you can
even better elaborate a bit on two incidents you referred to
about in the middle of your testimony in which in
one case you had requested a court order, and
Mr. Wallace had told you that you were not to go
further I think, and the other case you had
suggested a field audit, and Mr. Polsinello had
said that there would be none unless there was a
complaint.

If I have got that right, I wonder if you could more fully describe each incident, what your objective was, and why you made the request, and a little bit more about how you were turned down at each request.

THE WITNESS: In the first case, when we sent these letters out, we would give them two weeks from the date of the receipt of the letter to respond to us and provide us with the necessary corrections. And it wasn't just financial disclosure statements.

If there was discrepancies within a registration statement, a committee designation of treasurer and depository, which was also a required filing of the board, if that was either not filed or filed with errors on it, we would send letters on that too.

If after two weeks we gave them a little bit of a grace period too. We would then send a follow-up letter if we had not received a response. And then we give them another month. If we still hadn't received a response to the follow-up letter, I then compiled a list of those
candidates and committees that had not provided us with the necessary information for accurate filings.

And I did present to Mr. Wallace, and I said, you know, it's either within article 16 or 17 where we have the right to obtain a court order to compel someone to file accurately. I said I think we should utilize that section and obtain court orders against each of these candidates or committees.

And I was told that we weren't going to do that because the timing effort that would be required for us to do that would not be worth the information we would be getting back, from the candidates and committees.

MR. MAGAVERN: In your own view, what kind of information might you have got back had you pursued that?

THE WITNESS: Well, what we might have gotten back in cases where they didn't file the registration statement, we had no real idea of who the treasurer of the committee was and who the depository of the committee was. We couldn't subpoena the bank record to do an audit. If
there was a complaint made and we needed to do an audit, without a registration statement we don't know who the bank is.

MR. MAGAVERN: Could you take the next incident then please.

THE WITNESS: Okay. What was it?

MR. MAGAVERN: It was a case in which Mr. Polsinello I believe told you that you could not pursue a field audit unless there was a complaint.

THE WITNESS: There were various disclosure statements that upon financial review there was numerous discrepancies within those statements.

As an auditor that led me to believe that there might be some problems with the data that was used to post this information to the original book as records that were used to post this information to the financial disclosure statements. Based on that, pursuant that I requested that a field audit be done of these committees, in writing.

MR. MAGAVERN: What would the objectives of that field audit have been, what
kind of information would you try to develop and what would be the significance of that information?

THE WITNESS: What we would try to obtain is the original books and records of the individual contributions to see that all contributions that were in fact received by the committee were identified on the financial disclosure statement, and also expenditures made by the committee were in fact identified on the financial disclosure statements.

Through examination of them, via desk audit, I was led to believe that there may be some missing information.

MR. MAGAVERN: If we could go to the very last incident you described toward the end of your testimony, in which someone in the board had developed a program that would generate information in the Senate and Assembly, you said this had been presented to Mr. Polsinello and nothing had been done.

First what kind of information would have been generated and what would have been its significance?
THE WITNESS: What was generated was, for instance, within the Senate we would have had for Republicans the amount of contributions received for the 1986 general election. That information would have come from the 32 day pregeneral, 11 day pregeneral, and 27 day post general report.

He also had something in place where he could identify incumbents and show how much they received as opposed to their respective candidates that were running against them. And we did the same thing for the Assembly.

MR. MAGAVERN: This would have generated total contributions received, or would it have broken it down among contributors?

THE WITNESS: No, it would have been summary date, because we didn't have the individual contributors in our computer system.

MR. MAGAVERN: Then you testified that nothing was done because somebody didn't like the names that were coming out.

Could you explain that more fully, please.

THE WITNESS: That was a different
situation. That was the individual contribution when they were -- when a program was generated for those, I think that was about ten years ago, and the information was put into the computer, all I heard was that they didn't like some of the names that were coming out of the computer, as far as excess contributions, so they scrapped the project at that point.

MR. MAGAVERN: Meaning names of contributors?

THE WITNESS: Making excess contributions, yes.

CHAIRMAN FEERICK: Commissioner Emery.

MR. EMERY: Just a couple of questions. I believe you testified that you personally made an effort to create a vehicle by which you could distribute information that was consolidated from filings to the public; is that right.

THE WITNESS: Um.

MR. EMERY: What kind of an initiative did you take in that regard, if you could explain it, I didn't quite understand it when you
testified.

THE WITNESS: What we did was, given what we had keyed into the computer, we manipulated that data to put it in a format that we would have thought would have been useful information that to provide to the public so they can make a decision on election day, or to use it for --

MR. EMERY: What kind of information?

THE WITNESS: As I stated earlier, contributions received by an Assembly candidate, whether it be a Democrat or Republican. The incumbent as opposed to the candidate running against him.

MR. EMERY: And what happened to that initiative?

THE WITNESS: From what Jim Lane had told me when it was presented to Mr. Polsinello, Mr. Polsinello brought him in his office and said the Commissioner didn't want this type of data being disseminated to the public, and that it wouldn't be disseminated to the public basically.

MR. EMERY: Now, is there any
simplified data, if I can call it that, data that ordinary layperson can understand and that's essentially put out in a form that is accessible to either the press or to other interested parties, people who were interested in campaign spending, is there any such data put out on a regular basis by the State election board?

THE WITNESS: No.

MR. EMERY: Do you know the reason for that?

THE WITNESS: Well, part of this initiative that we took, it was just refused and from what I was told, the commissioners didn't want that type of data leaving the agency. They wanted the press to come in and view statements and draw their own conclusions from their view of the financial disclosure statements in our public viewing area.

MR. EMERY: How long did you work there?

THE WITNESS: Three and a half years.

MR. EMERY: Do you have an opinion as to why these initiatives to simplify matters and disseminate information were not provided to the
public and the press?

THE WITNESS: I guess I have an opinion on it, yeah. That's the reason, basically, I left the agency. It seemed like the commissioners didn't want anything new happening or anything innovative happening within the board. They just wanted to keep things nice and quite, and not distribute that type of information which could lead to questions, and potential problems, I guess, in dealing with the media.

MR. EMERY: In your opinion, were those actions that caused you to leave the board and then caused this situation of not disseminating simplified information to the public the result of political connections that people had at the top of that agency?

THE WITNESS: That's very likely.

MR. EMERY: And I take it that that agency is overseen by certain committees, both in the Senate and the Assembly.

THE WITNESS: Yes.

MR. EMERY: Are there close ties between those committees and the Senate and
Assembly and the agency?

THE WITNESS: Yes.

MR. EMERY: Thank you.

CHAIRMAN FEERICK: Thomas Schwarz, Commission special counsel.

EXAMINATION BY MR. SCHWARZ:

Q. Would you look at form 51 again that you have in front of you, in the blue book.

Could you tell me, is there any way in which I can tell as a member of the public or press how much money Mr. Donohue, who is the first name on the list, has given to this campaign in the State, or going to the Board of Elections?

A. There is no way you could tell that. You would have to go to each Board of Elections, each County Board of Elections, within the State and the State Board of Elections, and examine every filing that we have on file. If you wanted that information.

Q. And I would have to go to every county around the state, the State Board?

A: Yep.

Q. Every village board?
A. Well, most of the village filings were at the county.

Q. Every individual place?

A. Yes.

Q. And if Mr. Donohue were related to Mr. Doran, that they both worked in the same company, would there be any information at all within the State that would tell me that?

A. No, there wouldn't, because it's not required. Within the federal election campaign act, you are required to put your employer on the financial statement, but within the State, you are not. I believe it was even suggested before the board by someone from common costs that this be added to schedule 2-A, the employer information.

Q. As far as you know, at the time that you were at the State Board, did anybody promulgate a revised form that would require information as to employer?

A. I revised the financial disclosure statements. And I submitted them, I believe, in February of '85, a revision of the financial disclosure statements, which I believe initially
did include employer information for each
contributor.

Q. And what happened to that?
A. That financial disclosure statement
still hasn't been given any consideration or
reviewed.

MR. SCHWARZ: Thank you.

CHAIRMAN FEERICK: Thank you very
much.

(The witness left the witness stand.

CHAIRMAN FEERICK: The Commission
calls its next witness, Thomas Wallace.

THOMAS WALLACE,

having been first duly sworn by The
Chairman, was examined and testified as
follows:

CHAIRMAN FEERICK: Recognize
Commission staff director Peter Bienstock.

EXAMINATION BY MR. BIENSTOCK:

Q. Mr. Wallace, good morning.
A. Good morning.

Q. You have been the executive director
of the New York State Board of Elections since
its inception in 1974, isn't that right?
A. That's correct, sir.

Q. Could you tell us what you did immediately before that?

A. I was the director of the elections bureau in the Department of State, since 1965, and when the State Board was created, bringing over in effect my operation from the Secretary of State's office, and the enforcement operations from the Attorney General, I was placed in charge, as executive director.

Q. Now, I want to ask you some questions about the staffing and budget of your agency. Are the commissioners divided by party affiliation?

A. Yes, they are.

Q. Would you describe that to us?

A. Yes.

Q. Who the current Commission -- I am sorry.

A. Two Republican commissioners, two Democratic commissioners. They are appointed by the governor upon recommendation of certain individuals. One Republican and one Democratic Commissioner are recommended by the respective
minority and majority leaders of the legislature, the other two are recommended by the State chairmen of the two political parties.

Q. Is the senior staff of the agency similarly divided?

A. The senior staff is not by statute, but by tradition, probably the top four people in the agency.

Q. Could you describe the current holders of that position, and identify their party affiliations?

A. I am the executive director, I am a Republican. The deputy executive director is a Democrat. The counsel in charge of enforcement is a Democrat, and our special counsel, which in effect operates as general counsel, is a Republican.

Q. Now, am I correct, why don't you tell me what the current budget, annual budget of the agency is?

A. It's approximately 2.1 million.

Q. Has that fluctuated over the years, to any significant degree?

A. No, it has not. Except to recognize
of course the increased costs such as personnel, not increase in the number of personnel. In fact our personnel has decreased. But the increased salaries over these many years.

Q. I was going to get to that. How many employees do you have currently?

A. I believe it's approximately 38.

Q. And is that lower than it has been?

A. Yes, it is.

Q. And what, during your tenure, has been the high point in terms of number of employees?

A. Very early after the inception of the board, I believe we had approximately 51 employees.

Q. Now the 38, does that count the commissioners?

A. It does.

Q. And does it count the four members of the senior staff that you identified?

A. Yes, it does.

Q. Now, in terms of mandate of the State Board, is it fair to say that the board and its staff are charged with enforcing the State election law, state-wide, in cooperation with
local boards?

A. That's correct.

Q. And you are the person I take it who is in charge of each of the staff functions?

A. At the staff level, yes.

Q. And have been for almost 14 years?

A. That's correct.

Q. That includes election administration state-wide?

A. Yes, it does.

Q. And in cooperation with local boards?

A. The local boards have certain independent jurisdiction. We have direct jurisdiction for all those offices that cross county lines, and more or less indirect jurisdiction for the election process.

Q. Now, it's fair to say, is it not, that upstate there are many State legislative districts that cross county lines; is that correct?

A. That's correct.

Q. Now, it also includes investigations; is that right?

A. Yes. That is one of the other areas
of our responsibility.

Q. Now it's true, is it not, that the vast majority of those investigations are investigations that are initiated by the filing of complaints?

A. That's correct.

Q. And mostly in the area of the voting process?

A. Probably in relation to any other single area, yes.

Q. Now, your responsibilities for day-to-day administration also includes the collection of campaign financial disclosure statements, isn't that correct?

A. That's correct.

Q. And for that duty, I take it you assign five people currently?

A. We currently have a staff of five. One accountant position, and four clericals, two of which are paid out of temporary funds.

Q. Is it fair to say, Mr. Wallace, that your agency receives a vast amount of data concerning campaign contributions and expenditures?
A. Yes, it is. We, in 1986, we filed approximately 8,000 financial reports, and that does not include the registration statements, the designation of treasurer and depository authorization statements, and the other forms, the other documents.

Q. And is it also the fact, sir, that you do almost nothing to analyze that data?

A. Analytically we do the desk audits that Mr. Tenenini mentioned. As far as I recall, an automated or mechanical statistical function, we do not.

Q. And you don't compile statistics or publish statistics; is that correct?

A. That's correct.

Q. And you don't make the data available to the public or the press in any meaningful form; isn't that correct?

A. I think in most meaningful form is probably the statement itself, which we do make available. Immediately after it is received, within 24 hours, it is photocopied, made available to the public, which has a great deal of interest, probably for more than they would the
statistical information, but not to get into an argument, we do provide the document itself.

Q. You provide a duplicate of the data, of the filing?
A. That's correct.

Q. And you do no other analysis of the data on campaign contributions and expenditures?
A. Except for the desk audit, that's correct.

Q. And nothing even as basic, if I may say so, as the chart in the middle easel in front of you?
A. That's correct.

CHAIRMAN FEERICK: Would you identify the chart for the record, please?

MR. BIENSTOCK: I am sorry, Mr. Chairman, it's the pie chart, campaign contributions for state office, 1986.

Q. Now, I want to identify the category of candidate or committee for which you received disclosure statements. That includes the state-wide offices, candidates and incumbent?
A. Yes.

Q. And the members of the State
Legislature?

A. That's correct.

Q. Whether or not they are, their districts cross county lines?

A. That's correct.

Q. So that's all 211 members and races for the State Legislature?

A. Yes.

Q. And all of the Justices of the Supreme Court?

A. That's correct.

Q. And political party office where the jurisdictions cross county lines, as you mentioned?

A. Right.

Q. Am I correct that in even numbered years, there are approximately 1400 committees which are filing disclosure statements?

A. That would be a very good estimate, yes.

Q. Now, is it true that the desk audits that you have mentioned can pick up only errors which appear on the face of the filings, such as arithmetic errors?
A. That's correct, or overcontributions, which as Mr. Tenenini mentioned appear as a single entry.

Also, one of the checks we do is make sure their ending balance of the preceding report is the same as their beginning balance of the next, so that no money gets lost in between reporting periods and fails to get reported.

Q. But you can't detect, for example, whether a corporation has exceeded the $5,000 limit by making a contribution to a committee which doesn't have the responsibility of filing with the state agency; is that right?

A. I think I can go farther than that and say we probably would not detect if it was filed with us, if they were all filed with us, but on different, different recipients on different reports in different time periods.

Q. I see. So the card file that Mr. Tenenini mentioned is essentially useless?

A. I beg your pardon, I am sorry, on the card file by doing it in that nature, yes. I thought you were referring to just examining the reports themselves.
Q. Now, has the Board ever promulgated regulations to require corporations to attest to the fact that they were within the corporate limit for any particular year?

A. No, we have not.

Q. To go on, you can't detect --

A. Excuse me, please. On that one, if I could a little bit more, you have got to remember one thing. The recipient of the report is the filer, not the contributor. So what mechanism would be employed to do as you suggest?

Q. Well, there are certain requirements, are there not, of contributors?

A. No. I mean, the recipient is the one that files the documents. What you would be suggesting is every corporation that makes a contribution, even a mother, mama and papa type of closed corporation, who makes one contribution, would they themselves file a document? I don't think that's very practical.

Q. Well, in any event, Mr. Wallace, you can't detect partnership contributions for which there has been no allocation among the partners, can you?
A. Our procedure is that when a contribution comes in, identifying it as a partnership contribution, if they have not allocated it among the partners themselves, our audit staff is instructed to correspond and attempt to get that data.

Q. Is there any place on the form for a contributor or the committee to identify the contributor as a partnership?

A. No. There is instructions, though.

Q. And how can the auditor tell whether something is a partnership?

A. Normally you pick up by most of the time when a partnership contribution is given, the recipient will record it as such and such partnership.

Q. Well, why don't I refer you then to the exhibits in the binder in front of you. Beginning with Exhibit 51, which is a disclosure statement of the Friends of Mario Cuomo Committee for the 1983-1984 period, and ask you whether you can determine which of the partnerships and what are the allocations on the first page, or literally, if I may say so, Mr. Wallace, any page
of that document?

A. I believe that I would identify Weiss Blutrick, Falcone & Miller as a partnership. I would identify Werner, Gialom, Bartow & Fiorello as a partnership. Wilson, Elser, Edelman & Dicker as a partnership.

Q. Would it be appropriate procedure if I were to tell you that we have been unable to find any calculation for any of those?

A. That is a shortcoming of our staff, then, that is all I can say.

Q. Who would be identifying the partnerships?

A. The people who work in the audit section.

Q. And what is their title?

A. Mainly clerical. And as you have stated, four, four people.

Q. Well, I mean, just to be complete about it, there is a $10,000 contribution on that page from Willkie Farr & Gallagher, and I don't mean to pick out any particular law firm --

A. I am sorry, I just looked at the first page, and I didn't identify that one. I would
Q. Is it your testimony that you rely on a clerk to identify law firms or architecture firms or whatever they may be to be partnerships to require allocations which do not come in with the filing?

A. Mr. Bienstock, as you mentioned, we have four or five people. We must rely on that. We have no other amount.

If I may, just for a second, since you're raising these points, you mentioned that the fact that we do no statistical analysis, that we do not pick these things up. Yet you have seen our budgets. You are also in possession of a document which I provided some time ago, showing the number of times we have gone to the budget, we have asked them for additional assistance in the audit section, in the EDP operation. We have not been able to get it.

So what I am telling you is not what I say I am glad we are doing, or that I wanted to do, or that the State Board should be doing. I am saying that is what we are limited to doing.

So all my responses on what we do,
what we don't do, I hope you will keep that in mind.

Q. I do, Mr. Wallace.

Has the board promulgated any regulation requiring committees which make filings to allocate partnership contributions to members of the partnership?

A. The recipient committee?

Q. Yes.

A. They are supposed to.

Q. Are there any regulations to that effect?

A. I cannot tell you for sure whether it is an actual regulation. It is in our instructional materials.

Q. Now, how long does the law state that you must keep campaign disclosure filings?

A. Five years.

Q. The law doesn't require you to dispose of them after five years, does it?

A. No, it does not.

Q. Yet until we or perhaps another investigative agency requested that you stop discarding the information after five years, you
were doing so routinely, isn't that right?

A. That's correct.

Q. Have you approached the State archives to determine whether or not they would be interested in keeping that information for you?

A. It is all settled now. They will be. There was an agreement signed not too long ago. They will be keeping it.

Up until recently, we concluded -- not concluded, but there was no interest in old data, so that we would be storing data at a cost to the State of New York, where there was no interest.

As soon as -- I mean, I would have no problem, I see no problem in retaining, even in our agency, as opposed to archives, I have absolutely no problem with that.

It is really no great burden on us whether it's kept in five cabinets for five years or ten years. I just had not, nothing had been brought to my attention either by the SIC or anyone else that this information was in fact of any kind of interest or importance, beyond the five years. Almost everyone was interested in a four-year cycle.
Q. Do you keep the information for more than five years in any form?
A. No, we do not.
Q. Now, have you tried from time to time to establish computer capacity for the financial disclosure statements?
A. We have been trying to establish computer capacity since we were formed in 1974.
Q. And in a conversation with me back in December, did you refer to the history of those efforts as a disaster?
A. I probably used that word, because it would be the word that would come closest to mind. We now feel we are on the right track. We have in our budget request for 1988-89 requested a supervisor of data processing, or director of data processing, to use the correct title.
Up until this point, we have never had an administrative person or of an administrative level to be on staff and work with us on our data processing.
Again, we have asked for one for many years. It was only I think approximately a year and a half ago that we were able to get our first
programmer. So it's not for lack of want, it's for lack of resources.

Q. Did you have an experience with the Office of General Services that Mr. Daddario referred to?

A. Yes, we did. Back in probably the late '70s, I would say, through budget division, Office of General Services, there was an arrangement made whereby we would, and the word is rent, even though it's a state agency, we would rent time on the OGS computer. They in turn would provide us with programming assistance.

It worked to a minimal degree for about one year. OGS advised us then that they could not afford to provide us the manpower necessary to continue our operations, and budget filing at that time realized that the only way we were going to do it is have our in-house computer, which was the next step, and that was accomplished approximately in 1982.

Q. After all of those years of trying, it's fair to say, is it not, that the result of all of that effort, that you're now capable of
entering the data on the summary sheets?

A. I believe the technology is there. There is absolutely no question about the technology is there. Also to include all the individual contributions. There is no problem with that. That's a very simplified technology, as far as that goes.

The summary data we have been entering, I should say, though we have an additional hangup, and that is the problem with clean data. The only time the data is going to be meaningful is if it is clean data. We experience approximately 80 percent error rate in our financial reports.

This means that communication -- this means, first of all, that it has to, a desk audit has to be done to identify the problem, get back, get it cleaned up, and then enter it. So you have that problem to overcome, as well as the computer entry which again I believe is rather simplistic. I don't think there is any great deal about it, requires people.

Q: Do you believe that the State Board has the authority to issue regulations requiring
committees to file complete statements?

A. We, as a result -- the best way I can answer that is from what Mr. Tenenini said, and as a result of his discussion with me, we got together with the Council's office.

As you know, there is a provision where we may go into court and request a $100 penalty against people who fail to file. There is no such ability to get a penalty for incomplete filings. And what we have been finding is, in a very rare instance but in some instances, they will do a minimal filing to escape instant scrutiny at the time of the election, and then complete the filing thereafter.

We saw that we could not penalize, because of the statutory language, we therefore submitted a bill to the Legislature just last year, requesting that the words complete report be included in that statutory provision, so that the penalty provisions could be exercised against those particular people.

Q. So if I heard you correctly, the answer to my question is no, you do not believe
you have the authority to promulgate regulations requiring complete reports?

A. We do, but we have no enforcement tool, other than the Article 16 provisions about going into court. But there is still no penalty ability.

Q. Do you recall that I and a colleague met with you and Mr. McCarthy back in December in your offices?

A. Yes.

Q. And do you recall at that time, that either you or Mr. McCarthy summed up the issue of the enforcement authority of the State Board of Elections in this area, as essentially the authority of a paper tiger?

A. Mainly because of our ability, what we were doing to impress on you at the time, and I believe you will agree, is the need for better penalty abilities. This is in the context that that was used.

We have been requesting for some years now the ability to similarly fine violators, because what we have right now is a situation where we have two choices. And let's set aside
the failure to file for a minute, which we have
the civil $100, but only in that area.

In all other enforcement matters, we
have two choices; find that it is a crime, and at
least a misdemeanor, some felonies, or dismissing
the matter. Now, when you have errors, and there
are many of them in the Election Law which are
violations, which a DA would probably never
touch, I will just give one example.

Contribution limit is $2,000, someone
contributes 2400, 2300 dollars. Now, in order
for any successful penalty to be accomplished, we
would have to transmit that to a district
attorney, a district attorney would take that,
put it together with his rapes, murders and et
cetera, and decide his own priorities and go
forward.

Well, as you can see, the probability
of going forward is very low. That doesn't stop
us from doing it, but we do recognize the
situation. Therefore, we would very much like to
have the ability to provide a civil fine system.

MR. BIENSTOCK: Mr. Chairman, I have
no further questions at this time.
CHAIRMAN FEERICK: I have a few questions, and I know that the other members of the panel have some questions as well.

Let me just start out with a very basic kind of question. In my business, law school administrator, I find it very helpful to attend conferences which are attended by law school administrators from all over the country. It provides me with information about what's happening that I can consider for implementation at the law school of which I am the administrator.

I am aware that there are national conferences to which different states in the United States send representatives to communicate about common issues and problems, and I am just curious whether New York State is regularly represented at those conferences?

THE WITNESS: Yes, we are, Mr. Chairman. We do examine the schedule, decide whether or not the particular agenda makes it cost-effective to go, but we definitely attend those conferences, either one, two, three people maybe from the agency, again looking at it from a
cost-effective basis.

CHAIRMAN FEERICK: I would ask you to provide me with some information on that, because information which I have received, which may not be accurate, is that our state is not regularly represented at, take, for example, the Conference of Ethic Commissioners from around the country. That meets for several days in some setting, and if that information is incorrect, I certainly would like to be correct on that.

THE WITNESS: Mr. Chairman, I can comment on that one particular organization. Several years ago, when it first started getting off the ground, I was involved with it. I went to the conferences. However, what we found, the organization is a, let's call it a blend of several disciplines. Lobbying, campaign financial disclosure, office incumbent financial disclosure, ethics, et cetera.

What we found was that in a three-day session, being held in Hawaii or San Francisco, one half-day was devoted to campaign finance disclosure. That's not cost-effective, as far as we were concerned.
They are changing their emphasis somewhat right now to provide more of the seminar on financial disclosure. We have recently rejoined the organization, and will be taking a greater part.

CHAIRMAN FEERICK: I might also indicate that some of the law school functions that I made reference to are held in similar settings as well.

THE WITNESS: I have no objection to the setting. It just costs more to get there, Mr. Chairman.

CHAIRMAN FEERICK: You made reference to the lack of interest in old records, I believe, in the course of your testimony, and sort of left me with the impression that nobody had an interest in old records. I am just curious, would that be an accurate impression to draw away from your testimony?

THE WITNESS: I think it would be to say that no one ever brought to my attention the desire to retain these records, yes, that could very that is just what I said.

CHAIRMAN FEERICK: You also made
reference to there being an 8 percent error rate

THE WITNESS: 80. 80 percent.

CHAIRMAN FEERICK: Eight-oh?

THE WITNESS: Yes.

CHAIRMAN FEERICK: 80 percent error rates in the reports filed with you. Would you group, if you can, where those errors occur, what are the categories of mistakes that would appear in these forms?

THE WITNESS: You have mathematical. You have improper placement. And many times, the placement one is just as great as any other. And if I may give you just one little example, because it just recently happened. In the course of examining a financial report of an incumbent Senator's political committee, we came upon a 20 something thousand dollars transfer from a bank to the political committee, jumped right out at us. I think the contribution limit was something like $8,000, approximately.

Upon examination, we found that the treasurer, each time she rolled over a CD when one became due, when one had matured and she
rolled it over, she would record it as an in and out total transfer, so that on any one report you might see a $20,000 income, which after we got into it, in looking at all of the entries, not once had there real cash or monies available changed except for the interest earned. But you just kept these $20,000.

I didn't mean to take your time, but this is the type of thing we are getting, and if the data isn't clean, we are going to see that the statistics just do not show the truth.

CHAIRMAN FEERICK: If other categories of errors occur to you, as I am sure they will, after your testimony today, I would appreciate it if you would provide us with information as to those categories of errors.

THE WITNESS: I would be glad to.

Mr. Chairman.

CHAIRMAN FEERICK: And going back to my first question, I would appreciate any information you can provide about New York's attendance at conferences attended by representatives of other states to discuss up to date technology, and different techniques that
are being used to police, to make sure that campaigns are being conducted honestly, in a particular location.

I recognize Commissioner Emery.

MR. EMERY: Mr. Wallace, are there any documents generated by the State Board of Elections staff for internal use that analyze, that compile, that synthesize and consolidate information about the various filings that are for internal use, but that are not made publicly available?

THE WITNESS: No.

MR. EMERY: So is it fair to say then that the upshot of your testimony with respect to the activities of the State Board of Elections is that it is really a compiling agency and an agency which oversees and attempts to get corrected and in worst cases will attempt to pursue some sanctions for violations of the reporting requirements of the Election Law?

THE WITNESS: Okay, and I assume you're speaking strictly from the financial reporting function of our agency.

MR. EMERY: Yes.
THE WITNESS: I think, Commissioner, that we have left out one very important item here, and that is the failure to file efforts.

MR. EMERY: Aside from the failure to file efforts.

THE WITNESS: Yes. Aside from the failure to file, our primary function again, and I must ask the record and say because of limited ability, limited resources, is the processing of the documents.

MR. EMERY: What initiatives, if any, have you undertaken to expand your functions to include analysis, public dissemination of simplified factual information, revelations about particular campaigns around the state, what kind of initiatives have you undertaken, if any, to undertake programs of that sort?

THE WITNESS: I think I have to go back to what I said before. We would very much like to do these things, but the initiatives must begin with the resources to do them, and thus far we have been totally limited on that. Or excluded, I should say.

MR. EMERY: Let me ask you a little
bit about that. I take it that your Commission structure is two Republicans and two Democrats.

THE WITNESS: That's correct.

MR. EMERY: And your four chief staff people are also in fact two Democrats and two Republicans?

THE WITNESS: That is correct.

MR. EMERY: In terms of getting resources for the kind of functions that I just described, namely revelations about particular campaigns, compilations, analyses, public dissemination of information, isn't it really a formula for paralysis to have these two opposite parties at loggerheads at the leadership of your agency?

THE WITNESS: Neutrality, through bipartisanship, does have its downside, in that we have no sponsor, godfather, if you will, to promote and push through a program for us, or a budget. On the other hand, the trade-off, I believe, becomes very expensive.

MR. EMERY: Isn't it really worse than that? Doesn't it have to be the case that the two Democrats are afraid that the two Republicans
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MR. EMERY: Isn't it really worse than
that? Doesn't it have to be the case that the
two Democrats are afraid that the two Republicans
will take the initiative and use the agency to
embarrass Democrats and vice versa?

THE WITNESS: Not at all. I have
never found in my almost 14 years in this type of
climate. The Commissioners have always worked
very well together.

But just for an example, if I may, we
have decided over 400 law enforcement cases in
the 14 years. Approximately ten, and no more,
ten of the 400 have been by split decisions.

MR. EMERY: But they haven't worked
very well together at either getting you more
budget and they haven't worked very well together
at creating initiative to go well beyond the
compilation area, have they?

THE WITNESS: There was no one there
-- if we were all one party and we happened to be
the administration's party, I would guess that it
would be easier. This neutrality, as I stated,
does breed this, call it lack of support.

I think another thing that we have to
recognize, too, is that in effect, the
Legislature is our clientele. We are asking them
for more auditors, more investigators, so that we
can do a better job reviewing the reports of legislators, and so forth. I think there is a reluctance there.

MR. EMERY: There is an inherent conflict of interest there, that is you have to bite the hand that feeds you?

THE WITNESS: That's correct.

CHAIRMAN FEERICK: Judge Meyer.

JUDGE MEYER: It may not be possible, but the problem is one of the party people in the Commission working too well together, rather than not working together at all?

THE WITNESS: That has been an argument that has been advanced. I have not really seen it, Judge, and that's about the best way I can answer it. But it is theoretically possible.

CHAIRMAN FEERICK: Commissioner Magavenn.

MR. MAGAVERN: Mr. Wallace, you were here for Mr. Tenenini's testimony, were you not?

THE WITNESS: Yes, I was.

MR. MAGAVERN: I think it's only fair to give you an opportunity to respond to the four
incidents that he testified to in which he or others in the staff made recommendations for more impressive enforcement or disclosure in programs, and were turned down. Now it may not be fair to ask you to remember all four incidents.

THE WITNESS: I think I wrote them down, sir.

MR. MAGAVERN: I would like if you could give them your explanation then, case by case.

THE WITNESS: Thank you. Okay. Mr. Tenenini stated that, and again, Mr. Tenenini stated several times he had heard, or it was his understanding, et cetera. And I hope that it will be recognized as quite a bit of hearsay. But he stated that the individuals were not keyed in because the board was not happy with whose names came up.

I think I have already answered that with -- in other words, our lack of resources. We would very much like to key in all the contributors. We are just unable to, with the number of reports we receive, when we are talking about a staff of four people, that includes the
processing, and so forth, it is just impossible
to do that.

MR. MAGAVERN: I had understood the
testimony to be that a program had been
established and the names were coming out and
that the program was then --

THE WITNESS: The program was
established. It was our initial desire to do it,
or else we wouldn't have developed the program
work. Again, the technology was there. After we
had gotten to the point, that at this time our
staff was really being pulled down, and it was
decided that if we were going to, well, we
prioritized and it was found that we just did not
have the ability to do it. We would still like
to, this many years later.

MR. MAGAVERN: Wasn't the program
already up and running though?

THE WITNESS: No, it was not. It was
totally the development stage. This was as part
of the development, this was done on a test
basis.

MR. MAGAVERN: And at least it
successfully tested then?
THE WITNESS: Yes, no question about it. The FEC computerizes the contributions. I don't see it as a great problem. There is a few small hangups, such as name spellings, the computer cannot recognize when a first initial issues one time and then a first name is used another.

But all in all, I don't think there's any problem here.

MR. MAGAVERN: Was the decision not to implement that program made by the Commissioners, or by the top staff people, or by both?

THE WITNESS: I would say it was a joint -- of course anything the final decision comes via the commissioners, but I am sure that it was even my recommendation at the time saying we just do not have the personnel to do this.

MR. MAGAVERN: Could you take the next incident then please, and describe it.

THE WITNESS: With respect to field audits now, we explored the potential of doing field audits on a routine basis, not on any other type. Such as a problem. Again we had, as Mr. Tenenini mentioned, we had two audit staff. They
also supervised all of the office. We could not do it on a routine basis.

However, where I would disagree with what Mr. Tenenini said, that any time that through the desk audit there was ample reason to conduct the field audit, to my knowledge, unless it was short-circuited before it got to me, but to my knowledge, there should have been an audit performed there.

Now, when the statement is they made a lot of mathematical errors, it looks fishy but I can't tell you how, I don't think if it was presented to me in that way I would accept a particular individual being singled out, and that what you were doing, if you didn't field audit everyone, you would have to be selective, and I wanted good reason to be selective.

MR. MAGAVERN: Following up on that last one for a moment, is it your opinion, then, that the reports did not give a reliable basis for determining whether something has some fishy odor to it?

THE WITNESS: I think the best -- no. To what degree fishy? I am having difficulty
answering.

MR. MAGAVERN: Let me rephrase the question then, please.

I think you rejected an idea of going after committees whose reports appeared to some staff member to be fishy, because you didn't think -- you thought it would be unfair to select out people.

THE WITNESS: No, if there was cause, and that's probably maybe if we can use fishy and cause in the same text, if there was cause, I don't recall ever stifling a request to do a field audit.

MR. MAGAVERN: There have been field audits done then?

THE WITNESS: Yes, there have been. But I will say normally on complaint. Because again, resources, we must satisfy the people who are complaining prior to doing our own innovative work.

MR. MAGAVERN: Have there been cases where you have done field audits other than on complaint, on your own initiative?

THE WITNESS: I want to say likely,
but I don't remember which ones, and I have to say I don't know since that would be my only answer.

MR. MAGAVERN: In your opinion, are the reports you received, and are the processes which you have in place to process those reports, sufficient to give you a reasonably fair basis to then go out and field audit cases that appear to be to raise questions?

THE WITNESS: I think the best way I can answer that, sir, is paraphrase any statement that our first head auditor, when we first were created, and he came to me and said that if someone is go to try to evade or avoid the law, or violate the law th respect to financial disclosure, it is not something that we are going to pick up on the forms unless they are extremely stupid.

Meaning, the real transgressors are going to be the ones that file fairly good reports, but have a lot of holes if their books were checked.

MR. MAGAVERN: Does that suggest to you that your agency or some other agency ought
to be given the ability to go beyond the forms then?

THE WITNESS: That would suggest to me that if we were to achieve the optimum, every single political committee would be field audited, because I don't think anyone will feel that you can be selective in this.

MR. MAGAVERN: Including Internal Revenue Service?

THE WITNESS: Hopefully they have cause.

MR. MAGAVERN: And in your opinion, is there any way by development of more reporting requirements, to ferret out the cases of the sheer dishonesty?

THE WITNESS: The sheer dishonesty, if they are good at it, you're not going to catch them with reporting whatever -- just like IRS, very, very similar. IRS does not say we have developed a system where you cannot violate the law. They have developed a system where they say if you do and if we catch you, you're in trouble.

And I think that is about the only
direction we can go here.

MR. MAGAVERN: They have also, though, managed to give people cause at least for anxiety that they may be found out?

THE WITNESS: I would like to infuse the same anxiety.

MR. MAGAVERN: How would you do it?

THE WITNESS: I don't know. Stiffer penalties I think would be one thing. I think, I shouldn't have said I don't know too fast, but stiffer penalties would be one thing.

I think again getting back to the civil penalties, where we could penalize someone without going the criminal route.

MR. MAGAVERN: In your own opinion, it would not be fair to have any kind of even a random field audit system?

THE WITNESS: If there was a random field audit system, I would first of all like it mandated by the Legislature.

Secondly, I would not want to do it -- once the Legislature mandated it, then we could set up a reasonable schedule, and I would not want to go into it without a reasonable
schedule so that even though it is called random, there is a scheme whereby, let's say in a five-year period, everybody would get the same treatment.

MR. MAGAVERN: Sorry to go back to the earlier case, Mr. Wallace, but you started out, the first case you responded to was a case where you had a test program developed and then determined that the resources would not be sufficient to implement it.

Was that referring to the early program in the '70s soon after your board had been constituted?

THE WITNESS: That's correct.

MR. MAGAVERN: Mr. Tenenini also described a more recent, I believe, and I may be wrong, but a more recent case in which something was presented to show excess individual contributions, and I believe the testimony was that Mr. Polsinello had rejected the recommendation to implement that program.

THE WITNESS: Okay, I think we're talking about two different things here. The capturing of the contribution data was the very
early attempt, and I think Mr. Tenenini and I both agree that that's what occurred.

MR. MAGAVERN: That was individual contribution data?

THE WITNESS: Yes. I think what came later, I believe he is referring to I believe what Mr. Lane, the programs that Mr. Lane developed. These were for certain statistical data, and we have not totally done away with them.

They are let's say on hold right now, but they have not been totally rejected.

Q. Who made the determination not to implement those programs?

A. I am not too sure, I am not too sure how high it went up.

Q. Do you know how it got to the board level?

A. I don't recall. I really don't. It was in the context of everything that was going on. It was not a big item. And I don't recall just what happened to it.

MR. MAGAVERN: What were the objectives of that particular program, as
presented by Mr. Lane?

THE WITNESS: Again, I am not that totally conversant with it. At that point, it just didn't rise that high. But I believe it had to do with capturing certain statistical data from the reports of incumbent, I believe, and that was one of the somewhat negative reactions to it, that it dealt just with incumbents, and not with the entire field.

But as I said, it has not been totally rejected yet, and it is -- we are trying, and hopefully this coming year we can do a lot more with our statistical data, and I am sure we are going to review that.

MR. MAGAVERN: I would just like to know whose judgment was it that it would be unfair to just pick on the incumbent?

THE WITNESS: I think it was collective.

MR. MAGAVERN: Incumbents would be members of the Legislature, and the elected state-wide officers?

THE WITNESS: That's correct.

MR. MAGAVERN: Did you ever have an
interest in determining whether people in office were receiving contributions from people who did business with the State Government?

THE WITNESS: We had no way of identifying the, let's call it the correlation, unless it came through a complaint.

MR. MAGAVERN: Would Mr. Lane's program have helped to identify such?

THE WITNESS: No, not at all.

CHAIRMAN FEERICK: Commissioner Hynes, then Mr. Schwarz.

MS. HYNES: You just stated in response to Commissioner Magavern that in the coming year you think you are going to be able to do a lot more with statistical data. What is it that you expect to do in the coming year with statistical data?

THE WITNESS: What we have been working on is capturing the summary data. As Mr. Tenenini mentioned to you, I don't know how better to describe it, but the data that appears on the first couple of pages of the report, how much has been expended in the campaign to date.

The summary data, and then we will try
to again work it in two directions, one to clean up the data that goes in, then the other is to get it in and get it out in a meaningful way, and then in some form publishing it, making it available.

MS. HYNES: When you say get it out in a meaningful way, you are still dealing only with that summary data that you would get out?

THE WITNESS: That's correct.

MS. HYNES: And you are not doing that today?

THE WITNESS: That's correct.

MS. HYNES: And is there a reason that you are not getting out that summary data today?

THE WITNESS: Yes. Again going back to the clean data as I mentioned earlier, we are finding that it would be -- well, we would be almost guilty of false reporting if we provide the data as it appears initially on the financial reports.

MS. HYNES: But I think you are going to be able to clean up this data and get it out to the public with the same resources that you had in the past?
THE WITNESS: That's certainly our goal. How well we can accomplish it. But I think one thing we are going to need is that director of data processing to draw it all together.

MS. HYNES: You also testified that you had a staff cut from the very beginning of approximately 51 people to your present complement of 38. Was that cutback in staff, in your view, an effort to dampen initiative on the part of your agency to computerize information?

THE WITNESS: I wouldn't categorize it as such. I think it was we were the victims of overall cutting, and did not receive special treatment when it came to resurrecting anything.

MS. HYNES: Is there a reason, or can you under your jurisdiction right now, require the inclusion of employer data in the filings that you receive?

THE WITNESS: I am not sure. There is two ways of looking at it. The statute tells just what must be reported. Is it the law of exclusion whereby only that can be done, or can we go through our rule and regulation ability and
expanding on that?

I know our board has taken the position that they want the Legislature to require it as opposed to the board require it.

MS. HYNES: Why would you require the Legislature and not act on your own initiative to include something like employer registration?

THE WITNESS: Employer reaction. I am speaking for the Commission and by this is the --

MS. HYNES: Is there any area where you are comfortable in requiring additional information where you don't feel that you have to have the legislature do it?

THE WITNESS: Yes. Where the legislature doesn't speak to exactly what has to be on and says it can be by accounting rules as it says in the statute, accounting rules developed by the agency et cetera, in those areas I feel the Legislature has given us that broad ability.

MS. HYNES: We heard testimony this morning that there had been suggestions from staff, and I believe also common cause had requested employer information to be included.
Was that reviewed by you or anyone or the Commissioners as to whether employer information should be included in the reporting?

THE WITNESS: That was one of the things that I was mentioning to you, that the board felt that it wanted legislative direction on it and referred the matter to the legislature.

MS. HYNES: How long ago did they refer it to the legislature?

THE WITNESS: About three years ago, not in the form of a formal but more in the form of an informal process.

MS. HYNES: Was there any follow-up in the last three years?

THE WITNESS: There has been discussion, if that would be called follow up, yes, I would say so.

MS. HYNES: And do you have any view --

THE WITNESS: Excuse me, it might have been less than three years. Because it was as a result of the recommendation that Mr. Tenenini referred to, and that was probably less than
CHAIRMAN FEERICK: Mr. Schwarz.

MR. SCHWARZ: Mr. Wallace, what do you mean by legislative reaction, you didn't want to upset the Legislature?

THE WITNESS: Yeah, yeah.

MR. SCHWARZ: And so you wouldn't want to promulgate a regulation that you might have authority to promulgate, but you might not if you thought it would upset the Legislature?

THE WITNESS: First of all, and I will speak just for myself here, if I was going to promulgate a regulation which I thought would probably upset the Legislature, I want to make darn sure that it was in an area where I had authority, and don't go out on two limbs of the tree as opposed to one.

MR. SCHWARZ: When you had 51 people -- first of all, you said your budgets is 2.1 million now?

THE WITNESS: Yes.

MR. SCHWARZ: Who determines the internal allocation of your budget, how you spend it?
THE WITNESS: Okay, when we submit our budget request, it is a line item budget. Just about every requested amount of money is segregated in the given areas.

When we receive our appropriation, we have a very limited discretionary ability within the entire pot, but it is very limited. It is normally given to us in the way we present it which is what is referred to as line item.

MR. SCHWARZ: So that when you present a budget for let's say 2.5 million dollars, hoping for some increase, you would set forth in that proposal the breakdown of how you intended to spend that?


MR. SCHWARZ: And how in percentage there is any difference between the expenditures that you make for campaign finance and disclosure activities as opposed to the rest of your activities?

In other words, you propose how much you're going to spend in each area; is that correct?

THE WITNESS: Yes, we do. Normally,
the way it's done, however, is you always build on the prior year. You start with the prior year as a given, then you are working on additions and subtractions.

MR. SCHWARZ: So rough allocation in your office of having four clerks and one accountant in charge of all campaign financing activities is basically a decision that's been made by you and your fellow commissioners prior to the time that you filed for your budget; is that right?

THE WITNESS: No. Even if we requested let's say change an investigator position to an accountant position, even though we are talking about the same amount of money, that must clear through budget.

We did not have that discretionary ability.

MR. SCHWARZ: I don't think I am making myself clear. The percentage of the amount of your budget that you spend on the activities of campaign financing disclosure, that's an internal determination by you --

THE WITNESS: Not at all sir. Not at
all. That is outside our agency.

MR. SCHWARZ: How is that decided?

THE WITNESS: By the budget division and by the legislature.

MR. SCHWARZ: In other words --

THE WITNESS: The budget division first reviews our budget request, approves or disapproves, what they come up with goes into the Legislature as part of the Governor's executive budget.

MR. SCHWARZ: Let's cut through this. My question is who has determined to use -- to have the entire part of the State Board of Elections that deals with this area -- four clerks --

THE WITNESS: I don't think you understand the process.

MR. SCHWARZ: Excuse me, let me finish my question. I want to know who has determined, whether it's internal or in the State Government or elsewhere, the resources that will be used to deal with campaign financial disclosure activity?

THE WITNESS: I don't know how to answer you any other way than what I have.
Either I am not understanding your question or you're not understanding my answer.

JUDGE MEYER: I think if you limit it to the original budget as presented.

THE WITNESS: Oh, back in 1974?

JUDGE MEYER: No, in any one year you start with budget.

THE WITNESS: Which has been approved in preceding years. See, this is the point. The budget we are starting with is a budget that has been approved in preceding years.

JUDGE MEYER: You have no authority to change it?

THE WITNESS: No. From that we may ask for additions or subtractions, but it is strictly requests.

MR. SCHWARZ: Let's go back to the last year when you got 2.1 million. How much did you ask for?

THE WITNESS: I don't know exactly.

MR. SCHWARZ: Did you ask for a different percentage of expenditures to be made on campaign finance than you were receiving now, than you are permitted to spend?
THE WITNESS: Probably what you are getting to is what I mentioned earlier. I have given Mr. Bienstock a list of, over the last several years, the number of new positions we had requested in the audit section that were not approved. I think if that can help you in answering your question.

MR. SCHWARZ: And what was that.

THE WITNESS: I don't have the list here, but he does. I mean not here.

MR. SCHWARZ: You had 13 more people, you said you went from 15 to 38. How many of those 13 acted in the campaign financing?

THE WITNESS: I don't really know for sure. I would say maybe a third.

MR. SCHWARZ: Can that information be made available to us?

THE WITNESS: Yes, I believe we could.

MR. SCHWARZ: On your staff now you have one accountant, four clericals. I assume the accountant is the expert in the campaign finance area?

THE WITNESS: Hopefully, yes.

MR. SCHWARZ: And are there others
aside from the counsel?

THE WITNESS: There are others in the board.

MR. SCHWARZ: Aside from the two counsel who are expert in the campaign financing areas, as opposed to the petition and registration area?

THE WITNESS: I would say I have a degree of knowledge in it. Other than that would probably be it.

MR. SCHWARZ: So basically there are roughly three or four people now in the State Board of Elections who have any expertise in these areas aside from the clerks who know which forms with which?

THE WITNESS: I'd say that would be close, yes.

MR. SCHWARZ: What types of investigations have you conducted in this area, that is the area of campaign finance in the last couple of years?

In other words, aside from reading the form, picking up any arithmetical errors, filing them in whatever drawer you file them, what types
of investigations?

THE WITNESS: Excess contributions, excess corporate contributions.

MR. SCHWARZ: And how have those investigations proceeded?

THE WITNESS: I know of one right offhand that we turned over to the district attorney, just in the past year or so.

MR. SCHWARZ: Are they field investigations?

THE WITNESS: Yes.

Q. And they start from what?

A. One of them started from a complaint that there were certain corporations that had exceeded their limit.

Q. Aside from the pyramid investigation of which we are all familiar, are there other investigations?

A. I wasn't referring to that one.

Q. And one of them you say started from a complaint, and the rest were internally generated?

A. No, I said I know that one started from a complaint. The reason I am having a
little difficulty here is I don't work directly with the law enforcement, and --

Q. Who would that be?

A. Mr. McCarthy.

MR. SCHWARZ: You said that you think the penalty area ought to be increased, and you ought to have civil fining authority. Now, have you made any analysis of the assembly proposal of $375,000 to determine --

THE WITNESS: For what I am sorry?

MR. SCHWARZ: To determine in what way that would enable you to increase your investigations, or your staff?

THE WITNESS: I am sorry, 375,000 for what?

MR. SCHWARZ: The proposed assembly bill as an increase in your budget, which I guess I assumed that you were familiar with that, $375,000.

THE WITNESS: Oh, you're referring to the public financing bill?

MR. SCHWARZ: I am referring to the bill that has passed the Assembly that includes public financing and also increases your budget.
by $375,000.

THE WITNESS: I am sorry, I didn't know what bill you were referring to.

MR. SCHWARZ: Have you analyzed that 375,000 to determine what, if anything, you would be able to do with it, and how it can affect your internal structure?

THE WITNESS: Everything depends on what year, how close you would be to the year of public financing. If it were to be effective, if public financing was to be effective say for the first time in the 1990 and it was passed this year, the 375 would give us just about sufficient money for startup. If it was passed --

MR. SCHWARZ: The startup of what?

THE WITNESS: The public financing operations.

MR. SCHWARZ: I guess that's my question. It wouldn't affect everything else we have already been talking about here, with respect to your --

THE WITNESS: No, that's strictly a cost analysis for public financing for the administration thereof.
MR. SCHWARZ: And would this allow you to conduct field audits with respect to public financing?

THE WITNESS: I would say yes, there has been money factored in there, to be able to audit when they, after expenditures have been made, and they make the reports on how they expended the public monies, there would be that ability:

MR. SCHWARZ: So the 375 would permit you to deal with the new aspects of the law, but would not, I take it, give you any resources to computerize general contributions to legislative races, to races around the state, such as Mr. Bienstock was inquiring?

THE WITNESS: At first blush I would have to say no, but I would be the first to acknowledge that there has not been the study made to that extent, where I can be persuaded in my response to you.

MR. SCHWARZ: Well, you have analyzed how much it would cost you, have you not, in connection with the budget?

THE WITNESS: Very roughly. There is
still several variables in that. Such as over what period of time will they be required to be active in the public financing responsibilities.

MR. SCHWARZ: Aside from that area what I am inquiring --

THE WITNESS: That area has an awful lot to do with it. Because until we know the time period in which the people are required to act, how do we know what what other times are available.

MR. SCHWARZ: Now let's look at today's world as it exists without public financing. Have you made a determination as to what the resources are that you would need in order to do field audits, whether random or otherwise, in order to computerize data so that when the president wants to know how much money Mr. Jones has given to campaign races across the state, somebody can push a button and that number comes out, just like it would the Federal Election Commission.

THE WITNESS: It is absolutely impossible for me to answer a question which says random or otherwise. I mean, if you can give me
a specific program, I can try to give my best
dollar estimate to it.

I cannot talk in generalities, when I
have no -- when I do not know for sure from where
you're coming.

MR. SCHWARZ: What I would request is
I assume that somewhere you have prepared or
someone has prepared an analysis of how much it
will cost to do various computerization projects,
field audits and the like, and you have done an
internal analysis of those expenses in connection
with either discussions with the legislature or
budget applications, and I would request you
submit that to us so we may look at it.

THE WITNESS: I will do the best I
can.

MR. SCHWARZ: Within your budget, have
you made any determination as to how much it
would cost to require filers to type their forms
rather than handwrite them?

THE WITNESS: No, that not be
something that we would do a cost analysis, since
we were not performing the task.

MR. SCHWARZ: And it wouldn't cost you
anything, that's correct?

THE WITNESS: That's correct.

MR. SCHWARZ: Have you done that?

THE WITNESS: Why would I do it if it didn't cost us anything?

MR. SCHWARZ: No, have you asked that people file printed typed forms rather than handwritten forms?

THE WITNESS: No.

MR. SCHWARZ: Have you disclosed at any time, like we have in New York, they call it I think the roach patrol, when they indicate which restaurants have not complied with the State Health Code, they make certain releases; have you at any time made any releases of who has filed either incomplete filings or late filings in a public way?

THE WITNESS: I think you will see that in the press following the financial reporting periods, there normally appears who has failed to file. They get this and the press is very well aware that we produced, the first thing we produce is what we call a five-day letter list, computer generated. That is made available
to the press.

We then go into the show cause order process, which again is listed and available to the press, and then we go through our judgment, which is again available to the press, and they were very much aware, they know when it's coming out, and they make good use of it.

MR. SCHWARZ: How about incomplete filings, do you make any releases of that?

THE WITNESS: Incomplete filings?

MR. SCHWARZ: Yes. You said before that one of the great difficulties that you have is you currently have a penalty of $100 for nonfilers.

THE WITNESS: Now, no, this would not be the type of thing that would be conducive to a list. It comes about when the reports are audited, and it could be one today, one tomorrow, one the next day.

It is not something that everybody's required to do at a given time, then you produce a list.

MR. SCHWARZ: Do you then disclose after a determination has been made, who filed an
incomplete filing? Did you make a public
disclosure of it?

THE WITNESS: Sure, we do. The
correspondence, any correspondence that goes back
to any committee treasurer or candidate is
available, under the Freedom Of Information Act,
is in the file and the press has access to it.

MR. SCHWARZ: I don't mean the Freedom
of Information Act request. I mean do you
disclose it? Do you put it in a newsletter, do
you put it in any public release?

THE WITNESS: Would I put in a release
that somebody didn't release the address of two
contributors? No.

MR. SCHWARZ: So you don't do anything
to make a release of incomplete filings for
whatever reason?

THE WITNESS: If we're talking about
is the list of addresses incomplete, et cetera,
no. I don't like general questions. If you want
to give a specific question.

MR. SCHWARZ: I would like to you
answer my specific question. That is whether you
in any way make any releases with respect to
filings that are incomplete for whatever --

THE WITNESS: Would you please define

incomplete?

MR. SCHWARZ: For whatever reason.

THE WITNESS: Would you please define

incomplete?

MR. SCHWARZ: For whatever reason.

THE WITNESS: I am asking you to

define incomplete.

CHAIRMAN FEERICK: I am going to bring

the testimony to a close. I will recognize one

other person to ask a question, but I would like

to put something --

MR. BIENSTOCK: Mr. Chairman, I hate

to interrupt, but if you are going to ask any

significant number of questions, I would ask that

perhaps we be allowed to take Mr. Stern out of

order. He has a scheduled appearance out of

town.

CHAIRMAN FEERICK: What I have just

said is I am going to ask a question, and I will

recognize one other person for a question and

that's it.

My question is this: I assume that
believe that the FEC has an advantage that we don't.

And it's just one that you're not going to correct, it's there, and that is when you deal with Congress, Congressmen, the candidate for Congress, they will normally get a more sophisticated treasurer, by that I mean one who is familiar with the laws or familiar with the county practices and procedures.

What we find very often is that we will be dealing with treasurers for assembly candidates, Senate candidates who are someone's brother-in-law or sister-in-law, who do not have a good knowledge of what the requirement is.

The example I gave the Chairman a little while ago is fairly typical of what we run into. So our biggest hope is education which we are trying to do. We have from time to time over the Board's existence conducted seminars throughout the State for treasurers, political committees, candidates and so forth.

This spring we will be doing another round of them around the state which are also revising our booklet, again trying to get more
education out, trying to cut down on the
inability of the people to be accountants, in
effect.

MS. GORDON: Have you conferred with
our state agencies that collect financial data
forms such as tax returns and government
disclosure statements to learn from them what you
might about reducing that 80 percent error?

THE WITNESS: Not on a formal basis,
but informally we have discussions. Their main
feedback is education.

CHAIRMAN FEERICK: I am going to say
thank you very much, Mr. Wallace, and just let
you know that we would want to have much more
communication with your agency.

THE WITNESS: Very good, Mr. Chairman,
thank you for the opportunity to testify.

THE CHAIRMAN: We will take a
two-minute recess.

(Recess taken.)

CHAIRMAN FEERICK: Mr. Stern.

WILLIAM STERN,

having been first duly sworn by the
Chairman, was examined and testified as
order. Call as the next witness Ethan Geto.

ETHAN GETO,

having been first duly sworn by The
Chairman, was examined and testified as
follows:

CHAIRMAN FEERICK: Recognize
Commission Counsel Robin Shanus.

EXAMINATION BY MS. SHANUS.

Q. God afternoon, Mr. Geto, do you own a
public relations firm?

A. Yes, I am a in public relations film.

Q. What is the name of the firm?

A. Geto & DiMille Inc.

Q. And what was your role in Mr. Abrams' 1986 campaign?

A. I served as senior political adviser, strategist, I think the title that I gave myself was campaign director. We had a campaign manager who worked on a full-time basis at the campaign headquarters.

I worked out of my firm, which is also a political consulting firm, and my job was to supervise the media, package for the campaign, supervise the press relations for the campaign, I
was in charge of political strategy for the campaign, and I also had a role in the fundraising area.

Q. Were you also the treasurer for Citizens For Abrams?
A. Yes.

Q. You mentioned that you directed the campaign from your offices. Was Geto & DiMiele retained by the campaign?
A. Yes.

Q. And so then you worked for the campaign in your capacity as partner in Geto & DiMiele?
A. Yes.

Q. Prior to the 1986 campaign, had you previously worked for Mr. Abrams?
A. Yes. I have been associated with Mr. Abrams since 1970. I joined his staff on January 1, 1970, the first day he assumed office as Borough President of the Bronx.

At that time, I served as his press secretary. And since 1970, I have been his senior political adviser, strategist, campaign manager, and had served from time to time in
governmental capacities in his governmental agencies to which he was elected.

Q. You also mentioned that you were involved with directing the media program of Mr. Abrams' campaign?

A. Right.

Q. Did you hold that role in 1982 election as well?

A. Yes.

Q. And was it in that capacity that the campaign committee employed Geto & DiMiele media services?

A. Well, Geto & DeMiele media services is just an accounting, it's really a separate account that we maintain for the purposes of paying, making payments to radio and television stations, and for newspaper advertising and so forth. So we segregate those funds for we call a time buy, and it was really simply, it's not a separate entity as much as it is a separate you know bank account to write out checks for the express purposes of media advertising purchases.

Q. Mr. Geto, as campaign director, did you devise Mr. Abrams's fundraising strategy, or
at least play a part in devising it for the 1986 campaign?

A. Yes.

Q. Did you do that by yourself, was it a solo effort or did you work with someone else?

A. No, I would say the principal other individual with whom I worked is here as a scheduled witness today, Lawrence Buttenwieser, who has served for a number of years as chairman of Mr. Abrams' finance committee.

Q. How much money did Mr. Abrams try to raise for the 1986 campaign?

A. We targeted roughly two and a quarter million dollars for that campaign, I believe. Something in that neighborhood.

Q. Do you recall how that would compare with Mr. Abrams' 1982 target amount?

A. Yeah. I would say it's roughly double. Roughly double. And that was not because we were hoping or expecting to conduct a campaign that would be twice the scope of the 1982 campaign. But basically, because the essential costs of the campaign, in a campaign, a state-wide campaign in New York State, had maybe
perhaps not quite double, but had come close to
doing that, and this was therefore a goal that
was established to more or less equal the
reelection effort of the '82 level, the main
reason for that increase in funding was because
costs had escalated, particularly the cost of
television commercials.

Q. So then taking away the inflation
factor, which I believe is what you're
mentioning, Mr. Abrams spent essentially the same
amount in the 1982 race when he was an insurgent
as he did in '86 when he was an incumbent?

A. He was not an insurgent in '82, he was
running for his third term in '86. He was an
insurgent, not an incumbent, there was no
incumbent, in fact, in that race in '78 because
Attorney General Lefkowitz had retired.

So I don't know how else I can answer
that besides correcting it.

Q. How did you determine how much money
would be needed to fund the campaign, when you
said the 2.25 million dollars?

A. Right. Essentially, one has to make a
judgment. If you set out to run what I would
call a respectable state-wide campaign, and I could define that for you, you have to spend today, given the parameters of campaigns in New York State, mainly delineated by the costs of television and radio air time, and there are other significant costs that come into a campaign, but I would say for most campaigns, you would find that the burden or the bulk of the money is expended on electronic advertising.

Given a device to run a respectable state-wide campaign, i.e. a campaign where you're going to, you know, have a fair reasonable level, and this is subjective, of communication with the voters that you're going to show your commercials before the voters with a certain frequency, and you're going to kind of penetrate the consciousness of voters and of the people of the State, and you're going to mount an effort where you're going to have some level of presence around the state, so people in Buffalo and Rochester and Syracuse and the Hudson Valley as well as the New York City metropolitan area will feel that the candidate is out there, explaining his or her record.
Telling people why they think he or she merits reelection, and trying to win a vote of confidence and a mandate for the next term or the new term and so forth.

You have to spend, I believe, at least, or I believed in 1986, I haven't looked at numbers since then, but in 1986, 2 to 3 million dollars at a minimum, in order to accomplish those kinds of goals.

Q. You mentioned exposure and television costs. Did the target amount of 2 to 3 million dollars in any way take into consideration the identity of Mr. Abrams' opponent, Mr. King in that race?

A. When you say take into account Mr. King's identity.

Q. The fact that he posed say not a serious threat to the office.

A. Okay, I guess I have two answers to that. Again, to some extent, the answer I previously gave was irrelevant, as to who the opponent is.

If the opponent is somebody of great stature and reputation, or the opponent is a
virtual unknown, if you sort of in the abstract and independently as a candidate want to reach the voters with a level of exposure about yourself, and that could be for two reasons. I will try to be responsive to your questions. It would be for two reasons.

One is you want to win a vote of confidence and a strong mandate at the polls to justify your programs, and to give you more clout and leverage in your governmental capacity in your subsequent term because you can then claim that voters have affirmed the things that you represent and the things that you are seeking to accomplish, and/or in the case of Mr. Abrams and perhaps many others you aspire to a different and other higher office in the future.

A campaign is a once in four year opportunity to have a level of direct communication with voters via advertising and via direct contact. That is not the case during your four year period of incumbency in a State election cycle will when what you have to say and do is filtered through the news media.

And that's not to disparage the news
media and not to say that they don't typically accurately reflect what an incumbent tries to express.

But there is no question about it that a campaign is a unique opportunity to have direct communication with voters, which is essential in our democratic, small D, political process.

Q. Could you estimate what percentage of the overall combined budget was spent on media efforts?

A. Well, this is something that you or I could determine with accuracy very quickly, by looking over the records and seeing the percentages spent, because it's clearly spelled out in the filings.

Just off the top of my head, so it's just a guess, I would say something in the 75 percent range.

Q. So then the expenditures or monies that went to Geto & DeMiele media services represent the actual costs of the media service?

A. Yeah. We negotiated with the Abrams campaigns as we did with or with Mr. Abrams and other representatives of the campaign, a
percentage.

In other words, there is a standard agency commission, when you are an advertising agency buying ads for a politician or for a product, typically the manufacturer or the candidate would give you $100, you would deduct the 15 percent commission, there is gross and net dollars.

Actually we took a smaller commission. So of the money that went through Geto & DeMiele media services, I am guessing now, I don't remember exactly, but I would say 90 to 92 percent of those dollars that you see listed in that went for direct payment to television and radio stations and some other percentage that 10 percent or less range went as a commission fee to us in part to pay us for the time we allocated in preparing the time buy, which we did in-house in to your firm and for implementing the time buy and also in consideration for our general fee and of services for the campaign.

Q. Mr. Geto, how did you approach fundraising for Mr. Abram's campaign? Were certain target groups selected?
A. Yes. Our finance committee with my participation developed a general target budget, and it consisted of three major elements. We targeted approximately a goal of one and a half million dollars to raise from major donors, from people making significant contributions. Up to $500,000 or something in that range, about $400,000 that what we called a reach-out effort, which was where he contacted dozens of people, and asked them if they would host parties, essentially at their homes, sometimes in somebody's office or some other other location, but mainly there was at home parties, and then approximately $300,000 from labor.

Q. And how were these three target groups chosen as potential areas for funds for Mr. Abrams?

A. Well I guess basically, those goals were shaped and informed by past experience. I personally have run many, many state-wide election campaigns for Mr. Abrams, and I have worked on many others over the last many years, and it was our best judgment, as to what areas would be -- where we would be most successful,
given these targeted numbers.

I mean, if we felt that we could raise about a million and a half from major donors, we felt that we could raise $400,000 or thereabouts from at home parties. We made all kinds of calculations.

Somebody in Westchester County could hold a party on a Sunday afternoon and charge X amount and that would yield this. We went through those kind of calculations.

And then based on our past history contributions from labor unions, and you know what we thought might be appropriate within the political contribution budgets of various unions, which many of which give on a traditional basis, we derived those numbers.

Q. Do you ever use direct mail solicitations?

A. Rarely. In terms of mass mailings. It has been my analysis over the years something been associated with a variety of different campaigns and candidates, that it is difficult to raise large sums of money through direct mail unless you have one or two particular factors
You know, as per, for example, the race in '82 with Governor Cuomo versus Lou Lehrman on something, which had both ideological content and the sense that there was a real race going on there.

I think barring those two factors, it's very difficult to raise money through direct mail.

Q. So then barring those two factors in general terms in the fundraising efforts, who do you really rely on for contributions to Mr. Abrams' campaign?

I mean, these people are not people who are ideologically oriented; is that basically a fair statement?

A. Well, it's not entirely a fair statement, I suppose, because Abrams like most other people who have been in public life for a number of years has a constellation of issues and positions with which he is identified, and I think that, I don't think I am being contradictory, because in the sense of if Mr. Abrams, for example, was unchallenged in 1986, if it was perceived credibly by members of the
public that Bob Abrams was likely to be defeated,
for example, let's say by an extreme right wing
candidate who would not have the record on civil
rights, civil liberties, women's issues, consumer
issues, environmental issues that he has, I think
that we might very, very well have succeeded with
a direct mail campaign.

But I don't think that precludes my
saying to you now that a significant portion of
the funds that Abrams raised through direct
solicitation in part came from a number of people
because they like what he stands for in public
life.

Q. Mr. Buttenwieser we mentioned earlier
as the finance chairman will testify on
solicitation process of the major contributors.
But could you just tell us how much money an
individual normally contributes to be classified
as a major contributor?

A. I think the parameters that we had,
that was largely successful, was $15,000.

Q. Mr. Geto, you also mentioned something
that you called a reach-out program, in terms of
a fundraising effort.
A. Right.

Q. Was that used to solicit funds from individuals that you identified as smaller contributors?

A. Yes.

Q. And how did this reach-out program work?

A. The reach-out program essentially was that internally to the campaign we developed a list of several dozen people, many of whom, if I were to broadly characterize the list, I would say it includes Abrams' family members, long-time friends, several people on the list were his college and/or law school classmates or roommates.

It involved people he knew through communal civic and philanthropic work, for example, in the Jewish community. It involved people who are long time political supporters, who admired him liked him worked with him in past campaigns and so forth, and we would approach these people and ask them look, would it be possible for you to either in part donate yourself and/or raise from friends, colleagues,
associates, so on, at parties, basically at
parties where we said if you could tell us at a
certain point in time that you're going to have a
lot of people, and/or some significant amount of
money to be raised at the party, we will make a
commitment and try to have a candidate personally
there at the function.

Q. What was deemed a significant amount
in terms of what they were expected to raise?

A. I think we are talking about something
in the 5,000 to $10,000 range for these kind of
events. Sometimes the politics of it would
become as important or more important than the
money, so for example, if somebody in a
particular area you know could invite hundreds of
people to their home for barbecue on a weekend,
and only ask ten dollars a person, and that event
would yield $3200, we would not necessarily say
gee, you didn't meet the threshold of the $5,000,
so Abrams isn't coming because it's important and
valuable to have events where you can meet
hundreds of people and make a speech and talk to
people and shake hands and discuss the issues in
the campaign and so on.
Q. Mr. Geto, I direct your attention to Exhibit No. 53 in the blue notebook in front of you. Do you recognize this document?
A. Yes.
Q. What is it?
A. It is a copy of a list that I previously furnished to the Commission of individuals who were on this reach-out list.
Q. What does it read across of the top of the list?
A. On the top of this list it reads give and get list.
Q. Could you explain that term to us?
A. Yeah, that's a fairly common term in political fundraising, and what it refers to is you ask someone to either give themselves a timely contribution, in this case a fairly modest contribution, and/or to get it i.e., raise it from others. So it's sort of a combination.
You call up you know some contact or friend or somebody and say listen I would really like it if you could make a commitment to raise $5,000 for me.
Now if you feel comfortable or have
the money to give some of that yourself, that would be great, but to the extent that you get it by reaching out to friends and collection and put it together that way, that's fine.

Q. There are approximately 85 names on that list. Do each of these names a represent an individual who actually hosted an event for the '86 race?

A. No.

Q. What do the names on the list represent?

A. Represent people who we asked to host an event or raise money. I believe, I mean we could subsequently furnish to you a more accurate readout on this, but I have a clear impression that a number of these people did not come through and that's fine.

We asked them, we really appreciate it if you could do it, some have the time, motivation, inclination obviously did not because it did not result in any funds for the campaign.

Q. Could you estimate how many of these events actually took place for the '86 campaign?

A. Well I would just estimate that, I
don't know, maybe if this is a list of 85 names, maybe this is a quick guess, but maybe 20, 25 of these people may not have actually been successful in raising money.

Q. So let's say that maybe perhaps 60 events took place. Did Mr. Abrams appear at each of these events?

A. I think that he appeared at almost all the events. I think there were very few where we had an organized event that was planned and scheduled that he failed to attend. That may have happened on a few occasions due to scheduling conflicts, that would be the only reason.

Q. As you know, we spoke to Laura Ross, who is also involved in the campaign effort, on what actually organized these events as she told us, and she informed us that Mr. Abrams himself was the individual who personally contacted the names on that list to ask them to host events. Is that your understanding?

A. I don't think I had that -- I don't recall him particularly calling all of these individuals on a personal basis, that very well
may have happened. I don't doubt it or question that. I think Laura would have accurate information and if that's the way she characterized it, that's probably the way it happened.

Q. Mr. Geto, Mr. Abrams' filings also reflect he raised a significant amount of money, approximately 11 percent according to our calculations from labor unions, and that he had mentioned them before?

A. Right.

Q. Were they what you would term ideological contributors?

A. Yeah, I would say, try to give you a quick overview of that. Many unions have supported Abrams since he served in the State legislature in the 1960s and which is also the same time he was battling the Democratic machine in Bronx County, and some unions came on board with him at that time because they were supporting the reform movement.

That goes back more than two decades. I would say that union support for Mr. Abrams is based to a certain extent or certain large extent
on certain ideological grounds, certain unions tend more to direct contributions.

He is tuned in and an advocate of the concerns of working men and women, and for example, I just give you two examples. There was a major labor rally in opposition to Robert Bork's appointment to the Supreme Court, Bob Abrams was the keynote speaker, as the Attorney General of the State of New York he had expertise and standing and credibility to talk about Bork's record and why he felt Bob Bork is a bad Justice for the Court.

I think these kind of things, events goes on about labor all the time. Abrams also as Attorney General has championed issues such as safety of the work place, especially as regards warning employees of hazardous environmental conditions and materials.

And he has vigorously brought employers who place workers' health in peril as a leading consumer advocate. He is popular with workers in their capacity as consumers.

So I would say for all these kind of reasons he enjoys strong labor support.
Q. But these funds are solicited from the unions, they don't come in without solicitation, do they?

A. In most cases, no. Once in a while you will get people sending in a check and saying here is a check, but basically they are solicited.

Q. Do you hold events the way you do for the smaller contributors?

A. No, the unions, essentially the way we raise money from unions was essentially by direct mail. I don't mean a mass mailing, I am targeting individual listed personal listed letters.

One has a book that lists all unions, we send out a letter to most of the labor leaders in the New York metropolitan area, and so forth. Many of whom again as I said before have been supporting Bob Abrams for many years, many of whom take active roles in his campaign in a fundraising role, and I spoke to some of the labor leaders, directing I think in all causes we send letters saying he is running for reelection, we want your support, hope you will still be on
In many instances I would personally follow up and talk to some labor leaders, a number of whom are my friends and Bob Abrams' friend.

Q. Would you suggest that they contribute a certain amount in these letters or in conversations?

A. I don't think we ever established a particular fixed amount that we were looking for from labor union per se. It might be, for example, that a particular union gave a certain amount in the previous campaign, we might say gee, we hope you will give at least as much as you gave last time, or if you could give a little more because of inflation, that would be great.

Q. You mentioned earlier that you acted as Mr. Abrams' treasurer for Citizens For Abrams Committee. That was Mr. Abrams' only committee for the 1966 race?

A. Yes.

Q. Could you just describe briefly your role as treasurer?

A. My role as treasurer really was a
technical and a legal one, in the sense that when the campaign staff would prepare his filings for the Board of Elections, I would look them over, and then I would sign off on them, and sign my name to them as treasurer which is required I think with the board filings.

But that's really the extent of it.

Q. Did you also in the first instance receive the contribution checks?

A. The contribution checks in the first instance came to -- well may have come to the campaign -- I think they did come to our office actually. I did get them, I mean my office did handle the deposits.

So I mean the checks, maybe some of them went to the campaign headquarters, but they were forwarded to our office and/or they came directly to our office so I would see them as they came in.

Q. Now you mentioned that it was staff people, I believe, who filled out the actual disclosure forms.

A. Right.

Q. Did you or did anyone monitor the
contributions for possible infractions or violations of the election law?

A. Yeah. Well, first of all, we did advise the staff people sort at a clerical level who were just doing the intake and doing the register and keeping the records of you know the basic parameters of law, what the contribution limits were on individuals, on corporations, et cetera.

Q. Did you inform them about an aggregate limit on contributions that a corporation under the law is only allowed to give $5,000 for political purposes during a year?

A. Yes.

Q. Was there any way that you would possibly know whether an individual corporation was exceeding the limits?

A. What you have on form, as you know, and I think it was also on the form in 1986 is that there is a column where you check off for a corporation if it gave previously, so we would try to see, we would, you know, we had a file of all the disclosure forms and filings, and I think we had a system that essentially the answer to
your question is yes, that attempted to monitor
so they would, you know, not take a contribution
that exceeded the $5,000 limit.

Q. If I understand you, you're talking
about corporate contributions to Abrams' campaign
alone. The Election Law speaks in terms of
corporate contributions in the aggregate from a
corporation, so that, for instance, a corporation
shouldn't spend more than $5,000 in a number of
races?

A. No. We did not do -- what we did is
we advised contributors who are making
corporation contributions I think pretty
routinely, particularly when we got a $5,000
contribution, of the law that speaks to the point
you're raising about aggregate limits.

However, we did not undertake to then
check all other campaigns to see, in fact I think
that would be impossible.

Q. But you're saying you did advise
contributors about that portion of the election
law?

A. I think my best recollection, I
remember personally advising many people on
that. Sometimes it was in response to inquiries. Sometimes we did send out some memos to contributors advising them of what the limits were.

I remember authoring several memos along those lines. If you asked me did we absolutely universally blanket cover everybody with that kind of advice, probably not. But I think we did it fairly broadly, and particularly if we got a contribution that was at the $5,000 level.

Q. Mr. Geto, how is this information recorded in the campaign office, I mean what kind of records are kept of contributions?

A. Okay, well, first of all, we had two basic systems, one was an internal part of the fundraising operation where we had things like index cards and so on where we kept track of contributions from people who we had solicited and contributions that came in.

Then we had an index card system for all contributions plus of course we kept them in pencil on the Board of Elections forms just to track them as they came in, and then ultimately
we would, you know, when we had to do a filing, we would go over all that stuff and doublecheck and make sure we had things accurate and so forth.

So we tracked it both on Board of Elections form and on internal fundraising cards.

Q. But nothing was computerized in terms of the individual limits?
A. I don't believe so. I don't think we had that kind of a capacity in the '86 campaign.

Q. Mr. Geto, I direct your attention to Exhibit No. 54 in the blue notebook.

Q. Mr. Geto, you have Exhibit 54 in front of you?
A. Yes.

Q. What's that, please?
A. This exhibit is a Xerox copy of a slip, an original of which I hold in my hand, which is sent out with all letters of acknowledgment and thanks for contributions to the Abrams campaign.

Q. Could you read it for the benefit of the record, please?
A. Sure. In the slip says the campaign
committee has adopted a policy that I will not accept any contributions from individuals who are sponsors of co-op or condominium plans in the New York State Department of Law, or from employees of the Department of Law or their spouses. If these policies may affect your contribution please contact the committee at 212-686-4551.

Q. Mr. Geto, is there any policy regarding contributions from sponsors' attorneys?

A. No. I think it refers to sponsors, principals of sponsors.

Q. Now, aside from staff members and their spouses, the policy refers only to sponsors or principals of co-op or condo plans that are in the Department of Law.

A. Right.

Q. Is that another way of saying pending plans?

A. Yes. Pending acceptance for filing with the Department of Law.

Q. So is it then possible that the committee would accept contributions from a sponsor of a condo or a co-op conversion the day after the plan leaves the Attorney General's
Office?

A. That is possible. And I hope you're going to give me an opportunity to comment on that.

Q. Why don't you, briefly.

A. First of all, this is a self-imposed restriction that Attorney General Abrams has adopted as a blanket uniform policy. I know of no other comparable restriction adopted by any other candidate in any other part of this nature, and the reason for the rationale for it is that we seek and he seeks, and campaign committee seeks to avoid appearances of conflicts of interest, that we feel, felt that because sometimes conflicts or confrontations between sponsors and tenants or prospective purchasers in co-op and condo conversions sometimes get contentious, that it might lend itself to people saying gee, well, how could you be impartial, even though the attorney general goes to the personal rule on this to see this stuff his way.

But how can the agency be impartial if you're taking campaign contributions from people who have a stake in the process. Let me just say
that is not the only exclusion we make, and I don't know if you're going to ask me about that.

Q. I will give you an opportunity in a moment.

A. I just want to say this one thing very quickly, about your question about well would you take a contribution the day after a plan is accepted. First of all, we didn't have to bar them during the time the plan is pending for acceptance. Bob Abrams could do what other attorneys general have done and what a lot of other governmental officials do, which is not to exclude any category of contribution while a matter is pending in his agency.

He has imposed this restriction, and sometimes by the way these plans are pending for a long time and there may be a long window where he is barring himself, a totally self-imposed limitation, from taking such a contribution.

Q. Mr. Geto, the policy depends upon the contributor contacting the Attorney General's Office; is that correct?

A. That's correct.
Q. So then, really the policy relies on the contributors to police themselves?

A. In this case, that is essentially correct. I mean, it may be that once in awhile there is some reason why the campaign committee might know of a particular situation, but as you can imagine, we have had thousands of co-op conversions over the last decade, and I think it would be impossible, I mean, the only way to do it -- the only way for the candidate, in this case the Attorney General, to know this for himself, would be to utilize the personnel and materials and information in his government agency to screen contributions. We felt that would be an infringement from a variety of points of view, of using governmental resources time and personnel to get involved in effect in an aspect of political fundraising, and would be an inappropriate infringement for other reasons.

So we do rely on people to flag this for us, and we do ask them to do it. And we absolutely refund contributions the moment that anyone says yes they have some matter of this nature pending in the office.
Q. Do you have any other mechanisms in place in terms of conflicts? Specifically I am referring to the committee that you had mentioned that reviews contributions?

A. Yes.

Q. And that's a committee chaired by Nick Scopetta; is that correct?

A. That's correct.

Q. And how long has that committee been in place?

A. That committee has been in place at least back through the '82 campaign, might have been even earlier than that, but it's been in effect for many years. It's three persons consisting of Nicholas Scopetta, Adrienne Dawind, and Alex Forger.

These were three individuals of we felt high reputation and integrity, who Attorney General Abrams personally asked, again, this is a self-imposed mechanism, which the Attorney General of course was under no obligation to do, but he asked for these three individuals to constitute a committee to which the campaign committee would refer questions when we had
questions arise during the course of campaign fundraising that we felt gave the race the appearance of a conflict.

Obviously if we thought there was a conflict we would take the appropriate steps.

Q. But again, Mr. Geto, this whole process replies upon your somehow being notified of a problematic contribution. I mean, since you don't use the Attorney General's facilities to to check to see whether there is any conflict it's a question of hearing about it how?

A. Well, there are two ways of hearing about it. Sometimes we refer matters this committee on our own or reject a contribution based on something that is brought to our attention in the news media, which is often the case of when you find out about conflicts. Or we might know directly or I might know directly what I perceive to be a conflict situation.

For example, we received a check from the official Brooklyn Democratic Campaign Committee of the Brooklyn Democratic Organization, I think it was in the '86 campaign, maybe it was the '82 campaign at a time when
Attorney General Abrams was prosecuting the then county chairman, Meade Esposito, for a what Abrams contended and the Attorney General was contending was an infraction of State law. When I received that check I sent it back; I said that I felt it would raise the appearance of a conflict. So some of it would be self-generated, something I would have had brought to our attention by the news media or others.

Q. But it's fair to say then that it's really most notorious cases that these contributions get transferred to the committee?

A. You mean get referred to this committee?

Q. Right.

A. That is by and large the case, yes.

MS. SHANUS: Thank you very much; I have no more questions.

CHAIRMAN FEERICK: I would ask the witness if there are any additional conflict kind of guidelines that you recall being used, if you could just provide us with that information after this hearing today.
THE WITNESS: It would be my pleasure.

CHAIRMAN FEERICK: Commissioner Emery.

MR. EMERY: I am going to be brief, Mr. Geto. I want to explore a little bit your role not only as campaign manager, but as the head of the PR firm essentially. You are the head of a PR firm; is that correct?

THE WITNESS: I am the sole head of the PR firm. I am an equal owner and partner of a PR firm with another individual, yes.

MR. EMERY: I take it that capacity you represent private clients to retain you to help them with their public relations?

THE WITNESS: That is correct.

MR. EMERY: And advise them on media contacts, newspaper contacts and community contacts; is that correct?

THE WITNESS: Yes.

MR. EMERY: I take it that in your capacity as a campaign manager, have you ever managed other campaigns besides Bob Abrams' campaign?

THE WITNESS: Many.
MR. EMERY: In your capacity as a campaign manager, you at least feel some substantial responsibility for raising money for that campaign?

THE WITNESS: Yes. I mean it's not a central part of my role, but I am -- I have some responsibility in that direction, yes.

MR. EMERY: Well, you have overall responsibility in that direction if you are the manager of the campaign?

THE WITNESS: Yes, in that sense, yes.

MR. EMERY: And do you ever approach your clients with respect to solicitations for the campaigns that you're handling, your PR clients, that is?

THE WITNESS: Yeah. I don't think so. I think I am thinking specifically of Abrams' campaign. Some of my clients have been long time contributors to Bob Abrams. They were not brought on board by me. The clients, my clients were contributors to Bob Abrams to the very best of my knowledge, predated I think, the formation of my firm. I don't think I brought aboard any of my clients as major contributors to
Bob Abrams or other campaigns that had not had previous associations as contributors.

MR. EMERY: Really, what I am trying to find out is how you feel about that. What does it concern you as a person who runs a PR firm and as a person who runs campaigns that you have a special relationship with your own clients, PR may be enhanced in some sense by giving to campaigns, or there are certain people who you campaign as part of their public relations in an overall sense, expensces and costs of doing business and the like in this City and others.

Do you see a conflict of interest in your position as a head of a PR firm, raising money from your clients for the people that you support as a campaign manager?

THE WITNESS: Well, I already told you that to the best of my --

MR. EMERY: I am not suggesting you did it, I am talking in the abstract I am not --

THE WITNESS: No, I don't see a theoretical conflict of interest. In other words, if you had an ongoing, as I do, public
relations business and had clients whom I serve on who retain me to meet their needs.

BY MR. EMERY:

Q. And you're advising them with respect to how best to enhance their public relations.
A. Yeah. Okay.

Q. And you are retained campaign manager for a campaign?
A. Yes.

Q. Is it a conflict of interest in your mind to go and solicit campaign contributions?
A. No, I don't think. I mean if I did that I would be able to say to the client I am managing so and so's campaign, I wouldn't pretend that I had no participation in the campaign. You believe I would be up front, look, as you know, I am managing Candidate X's campaign and gee, I really appreciate it if you would make a contribution to that campaign.

They are going to tell me yes or no, and/or they're going to say -- my answer is I don't understand what the conflict is that you're perceiving.

Q. How would you feel if you were the
person who was your client?

A. If I am the client, right?

Q. Yes, let's say you were Barney's,
you're Mr. Pressman, who is going to testify here later. Mr. Pressman is having lot of troubles in
the communities getting the zoning change,
because he needs it for his business, and he
thinks it's also probably good for the community,
he believes.

And he comes to you because he is in
terrible shape, the community is up in arms, they
are marching around his store and all kinds of
other things, I don't know if that's case but I
am making up the scenario, and you are retained
by him and you say there are a number of things
we could do, and you do a whole range of things
for him, and you're becoming successful at
changing the climate in which he is seeking his
zoning change.

And one of the things you tell him to
do or you advise him to do that would be good as
part of an overall scheme of public relations is
to make certain campaign contributions to certain
officials as part of good government, as part of
a good approach towards dealing with your community and your City, is that fair to say, you could do something like that, wouldn't you?

A. I don't know that I would say it in the way that you characterize it. I don't know whether I would do it as part of a public relations campaign, you know.

Q. In what capacity would you ask him to make contributions to various public officials?

A. I probably wouldn't ask him to do it. He might ask me for my advice and counsel as to making campaign contributions. I happen personally to be a big believer that people who do business in this city, as well as people who live in this city, if they have wherewithal, and you can also make very small contributions that are appreciated, I believe that people should make campaign contributions as part of their civic responsibility.

Q. But now put yourself in this position in this situation, where he has come to you, you seem to be doing a great deal good for his immediate goals in his business, and you tell him that you're the campaign manager for X, Y or Z
campaign, and you would like him to make a
contribution to that campaign as part -- well, in
what role, I mean if you asked him that what role
would you be saying it in and how would he
perceive that?

A. I guess, Mr. Emery, it depends on how
would do it in a specific instance. I cannot
make a generalization there. I suppose if you're
suggesting that someone who is both a public
relations person for a business person, and a
campaign manager, could conceivably go to the
client, i.e., the first person, and say to
that -- and somehow pressure that client to give
money to a candidate who is another client's
person, I mean I don't really see the leverage of
what you're talking about because frankly if
you're asking me to theoretically or
hypothetically put myself in that place, I would
be damn hard pressed to go to my client and start
strong arming my client to do something because
he will turn around and boot me out the door.

So I don't understand what you're
postulating, really.

Q. Add this factor to it. Add the factor
that you need an approval from some specific agency, such as the Board of Estimate, and that in your estimate as Board of Estimate for the client who needs your approval, you are the person who is going to talk and make contact with the officials on the Board of Estimate, and you're the one who is going to try to convince them of the merits of your client's position.

Are you telling me that it would not be helpful to have advised your client prior to that to have made campaign contributions to those various members of the Board of Estimate?

A. First of all, you mixed up two things in my mind. First of all, you put it in the framework of me being the campaign manager, for example for a member of the Board of Estimate, which is not to the case.

Q. I am not in this area of public relations and of the person who also raised money or been part of the process of raising money for candidates. And combining the two functions in some sense in one career.

And what I am asking you is, if you add to those two functions in that one career,
the process essentially of a lobbyist to the client of yours who is a businessman or business entity, and you're going to make contact with particular public officials, and you have advised this person to make contributions to those officials, don't you think that there is a substantial amount of influence, especially if you have been in a position of raising funds for those officials in the past or during that campaign?

A. No. First of all, you injected a hypothetical that I tried to convey to you is not the case. In other words, you're saying in my capacity as a public relations person and as campaign manager.

Q. As a fundraiser?

A. As a fundraiser, and a campaign manager, and then mixing that in with work I may have done as a lobbyist, and I am saying those are completely separate in my mind and in my work. In other words, I am not raising money. I answered your first question I do not raise money from candidates that I manage, nor from the Board of Estimate nor did I ask any client of mine to
give money to a candidate or a member of the Board of Estimate who is my client.

So you postulated something that is not what I have been involved in and then when you asked me to answer it theoretically, all I can say I suppose it depends on how it's done in the situation. I see it as more the other way around. Of being very thepidatcous, if you ask me how I would feel about it, if I was managing a candidate who also might be the subject of lobbying that I was doing which is not the case, and raising money from a client of mine for that candidate, I suppose you could get into a conflict there, depending on how you approached it.

Q. No matter how you approached it, it would be very hard to avoid a conflicts situation, wouldn't it?

A. I don't think so, because I think the reality, if you really put yourself in that situation, you're still going to your client, and I assume you are advising your client on the basis of what is in your client's best interest.

I think the only time there would be a
conflict in the framework that you have created, 
the only time there would be a conflict in my 
mind would be if you're going to a client and it 
wasn't in your client's best interest, and you 
were lying to your client, and then saying 
because you are trying to raise money 
disingenuously for a subject because of lobbying, 
if it was in your client's interest you would do 
it whether your relationship as the candidate or 
official or not, so I don't see it as conflict. 

CHAIRMAN FEERICK: Thank you very 
much. We are going to have one more witness and 
then we will take a break for lunch. Those 
interested, the luncheon break will be very 
short. Call Richard Gordon. 

CHAIRMAN FEERICK: The Commission 
calls Richard Gordon. 

R I C H A R D G O R D O N, 

having been first duly sworn by The 
Chairman, was examined and testified as 
follows: 

CHAIRMAN FEERICK: Mr. Gordon, would 
you identify the person who is seated next to 
you.