



Clean Elections and Scandal: Case Studies from Maine, Arizona and New York City

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Introduction

On June 27, 2011 The U.S. Supreme Court ruled in the landmark *Arizona Free Enterprise Club v. Bennett* that the election policies of several states were unconstitutional. Specifically, the Court declared the use of “matching funds,” whereby a privately-financed candidate for political office would be forced to trigger state-granted matching funds for any publicly-funded opponent if he or she spent above a certain threshold, an unconstitutional demand on a candidate whose speech would be chilled by the mandate.

The ruling was greeted with horror by a number of reform groups such as Common Cause, who wrote: “The provision struck down by the court actually increased free speech, helped to prevent the corruption

...“clean elections” laws often favor corrupt incumbents against upstart challengers; exacerbate election fraud and facilitate new and creative forms of campaign finance corruption...

and the appearance of corruption that can accompany private campaign contributions, and did so in a fiscally responsible manner...”¹ The presumption, however, that “clean election” (i.e. taxpayer funded) systems have been an effective firewall against corrupting influences in the political process has little basis in fact. The reality, as will be shown here, is that “clean elections” laws often favor corrupt incumbents against upstart challengers; exacerbate election fraud and facilitate new and creative forms of campaign finance corruption; facilitate the waste of public money on fake or non-serious candidates; and create cumbersome and onerous filing and reporting requirements for both participants and non-participants alike.

Though the dollar-for-dollar “matching funds” systems present in many states are now a thing of the past, New York City’s “super match,” whereby candidates receive a six-to-one contribution from the government for every dollar they raise themselves is being hailed as the new gold standard of campaign finance by many in the pro-regulation bloc. Ironically, this program exists in the city with one of the worst corruption problems in the U.S., calling into question exactly how “clean” these elections actually are. This report will show how a number of candidates and their associates, in New York City, Maine and Arizona willfully abuse the campaign finance system, exploit loopholes within it ensuring they can keep much of their donation money off the books, and once in office, often further abuse public funds and even find themselves under investigation for criminal conduct.

New York City’s matching funds system has been in place for over twenty years and remains one of the oldest such systems in the country; Maine and Arizona’s systems have each been around for about a decade, leaving more than enough time to analyze the history of the system, its successes and pitfalls. They are also the first three systems in the U.S. established to pay for a majority of a candidate’s campaign expenses, leaving them supposedly free from special interest considerations, although an analysis of the facts indicate otherwise.

1 <http://www.commoncause.org/site/apps/nlnet/content2.aspx?c=dkLNK1MQIwG&b=6391549&ct=10887535>. Retrieved 9/21/11.

Executive Summary

We compiled information from a number of news reports and official sources that illustrated the problems with Clean Election policies in the state campaign finance systems of Maine and Arizona and the City of New York. The abuse of public funds is so severe and the record of corrupt practices and other misdeeds are so rampant, particularly in the city of New York, that such a system cannot possibly live up to the “clean” moniker that has been assigned to it by its proponents. The system does not deter either corruption or the appearance of corruption.

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I. Arizona

By a margin of 51 to 49 percent, Arizona voters passed the Arizona Clean Elections Act in November 1998. The Act was a ballot initiative that established optional government-funded financing for candidates who wished to participate as an alternative to traditional fund raising means. Arizona’s (along with Maine’s) program was the first in the nation that intended to cover nearly the entire cost of campaign funding for candidates seeking seats in the state legislature or certain other statewide offices. The program began during the 2000 election cycle.²

Campaign Finance Issues

The recent Supreme Court decision in *Arizona Free Enterprise v. Bennett* has highlighted a number of problems with the Arizona matching funds system. Besides being struck down as unconstitutional, the eleven-year-old campaign finance system has been expertly gamed by Arizona candidates, PAC’s, political parties, and other interest groups, who have found a number of ways to not only get around reporting requirements and spending limits, but have actually used the laws to their advantage outside of the intent of the campaign finance system.

Yuri Downing

In July 2004, former East Valley legislative candidate Yurikino Cenit “Yuri” Downing was criminally indicted on six felony counts claiming he misused over \$100,000 in public matching funds during his campaign.

Downing, who claimed to be running a “youth oriented” libertarian campaign when he ran for state legislator in 2002, spent campaign money on parties at Scottsdale night clubs, restaurants, vehicle rentals, and office equipment.

² *Report to the Subcommittee on Financial Services and General Government, Committee on Appropriations, U.S. Senate. “CAMPAIGN FINANCE REFORM: Experiences of Two States That Offered Full Public Funding for Political Candidates.”* p. 104. United States Government Accountability Office. May 2010.



Colleen Connor, Executive Director of the Arizona Citizens' Clean Elections Commission said in April 2003 that she could find no evidence that there was a serious bid for public office by Downing or the other two candidates, Trevor Clevenger and Paul DeDonati, for which he served as treasurer. Connor claimed the money was most likely planned for purposes other than campaigning.

Downing and the other candidates were ordered by the Commission to repay the entire amount, but Clevenger and DeDonati managed to have their fines reduced to \$15,000 each.³

Robert Green

Former Arizona Senate candidate Robert Green was indicted in November 2010 for submitting false documents with the Arizona Clean Elections Fund to collect more than \$21,000 in public matching funds.⁴ Green had been removed from the matching funds program the previous May by the Citizens Clean Election Commission and ordered to repay \$20,000.⁵

According to the indictment, Green lied about receiving qualifying contributions, knowingly accepted contributions in the name of one person when they were made by another, and lied to the Committee to cover up the violations.⁶

On February 1, 2011 Green signed a plea agreement that sentenced him to probation, and ordered him to pay a \$9,479 fine to the Anti-Racketeering Fund and restitution to the Arizona Secretary of State and the Citizens' Clean Election Commission totaling over \$11,000.⁷

3 "Candidate Indicted in Misuse of Funds." *East Valley Tribune*. (7/18/04, Updated 3/10/10.) Retrieved 7/15/11. Available at http://www.eastvalleytribune.com/article_bf812142-4ccb-5d62-a835-f9ccf617e36d.html.

4 "Former Legislature candidate indicted on fraud, theft charges." By The Arizona Republic, (11/2/10) under Arizona Republic News. Retrieved at TucsonCitizen.com 7/15/11. <http://tucsoncitizen.com/arizona-news/2010/11/02/former-legislature-candidate-indicted-on-fraud-theft-charges/>.

5 Nathan Thomas. "Arizona Republican kicked off campaign financing for fraud." Democratic Legislative Campaign Committee website. 5/28/10. Retrieved 7/29/11. <http://www.dlcc.org/node/1957>.

6 "Former Legislature candidate indicted on fraud, theft charges." By The Arizona Republic, (11/2/10) under Arizona Republic News. Retrieved at TucsonCitizen.com 7/15/11. <http://tucsoncitizen.com/arizona-news/2010/11/02/former-legislature-candidate-indicted-on-fraud-theft-charges/>.

7 *The State of Arizona v. Robert Mark Green*. Case No: CR 2010-007636-001DT. Retrieved 7/15/11. http://www.azag.gov/press_releases/feb/2011/Green%20Plea%20Agreement.pdf.

McComish v. Bennett

Plaintiff John McComish argued in the landmark *McComish v. Bennett* that “individuals... can deliberately run as candidates in the same race as one or more preferred participating candidates in order to trigger matching funds to participating candidates.”⁸ Donors have found a number of creative ways to game the Clean Election Act: individuals or organizations can contribute to a non-participating candidate in order to trigger matching funds for their favored candidate, something the energy industry appeared to be engaging in, according to Arizona Corporation Commissioner Paul Newman, who claimed to have heard that Republicans were running a “team” of non-participant and

participant candidates for Corporate Commission. According to McComish, “this scam multiplies the value of moneys given or spent to support a traditional candidate.”⁹

Campaigners gamed the system... simultaneously hurting their candidate's opponent and triggering free matching funds for their favored candidate.

McComish also cited the clever practice of “reverse targeting” to trigger matching funds, whereby interest groups fund an advertisement that appears to support a candidate, but is designed to repulse them or otherwise create some adverse reaction among viewers. For example, during the 2008 campaign a “blast email” was sent out that claimed a gay rights organization was supporting a socially conservative candidate, intended to put off socially conservative supporters. Other ads asked their audience to help a candidate who opposed illegal immigration to “support open borders.” Campaigners gamed the system using “reverse targeting” in order to “circumvent contribution limits and disclosure requirements” to kill two birds with one stone, simultaneously hurting their candidate's opponent and triggering free matching funds for their favored candidate.¹⁰ This was also employed by 2008 GOP Senate candidate Jesse Hernandez and House candidate Mark Thompson, whose campaigns posted signs that implored voters to help democratic candidates Meg Burton-Cahill, David Schapira, and Ed Ableser “support illegals” before demanding matching funds.¹¹

McComish concluded in his petition that “Arizona's matching funds system thus enables political

8 *McComish v. Bennett*. No. 10-238 and 10-239 publicized preview briefs from American Bar Association. (2010) Page 72. Retrieved 7/15/11. http://www.americanbar.org/content/dam/aba/publishing/preview/publiced_preview_briefs_pdfs_2010_2011_10_239_PetitionerMcComish.authcheckdam.pdf.

9 *McComish v. Bennett*. No. 10-238 and 10-239 publicized preview briefs from American Bar Association. (2010) pp. 72-73. Available at http://www.americanbar.org/content/dam/aba/publishing/preview/publiced_preview_briefs_pdfs_2010_2011_10_239_PetitionerMcComish.authcheckdam.pdf.

10 *McComish v. Bennett*. No. 10-238 and 10-239 publicized preview briefs from American Bar Association. (2010) p. 73. Available at http://www.americanbar.org/content/dam/aba/publishing/preview/publiced_preview_briefs_pdfs_2010_2011_10_239_PetitionerMcComish.authcheckdam.pdf.

11 “Campaign sign's intent spurs matching funds fight.” *East Valley Tribune*. 10/8/08. Retrieved 8/16/11. http://www.eastvalleytribune.com/article_a2e5eac9-c2f4-558e-9e48-a95e9eab3648.html.



actors to leverage public campaign financing to generate the functional equivalent of unlimited and undisclosed private campaign contributions.”¹²

The “Solar Team”

McComish v. Bennett cited in its petition the case of Sam George, who triggered nearly \$1 million in matching funds for participating Arizona Democrats Paul Newman and Sandra Kennedy to support a coordinated “Solar Team” campaign for three seats on the Arizona Corporation Commission during the election of 2008. George was also a consultant to the proponents of the Clean Election ballot measure, with the “Solar Team” website indicating that George “helped write and pass” the Clean Election Act. *McComish* opined that “a cynic might suspect Arizona’s matching funds system was designed to be gamed.”¹³

Despite undermining the entire purpose of matching funds, it is still legal for traditional non-participant and “clean election” participant candidates to work together, with fund raising from the traditional candidates triggering matching funds for their “team.” Such was the case with Sam George’s “Solar Team,” which coordinated radio spots and TV commercials that openly campaigned for the Solar Team and set up a website to raise money. When George spent \$250,000 on his own campaign, he triggered nearly \$500,000 in matching funds for his teammates.¹⁴

Margarite Dale

Margarite Dale ran for the Arizona House of Representatives from District 10 on the Green Party ticket in the 2008 election cycle as a part of an apparent Republican tactic to fund Green Party candidates in order to siphon votes

Dale then promptly used the public funds to purchase a camera, two computers, and a full set of software totaling over \$4,000, which she kept after the campaign had concluded.

away from Democratic opponents. Dale qualified for \$68,531 in public funds and was found to have given money to consultants affiliated with Republican State Rep. Jim Weiers, Sen. Linda Gray and former Rep. Douglas Queland of the Arizona’s tenth District. Dale was assisted in meeting qualifications for matching funds by Weiers, Queland and State Rep. Kimberly Yee and/or their

12 *McComish v. Bennett*. No. 10-238 and 10-239 publicized preview briefs from American Bar Association. (2010) p. 74. Available at http://www.americanbar.org/content/dam/aba/publishing/preview/publiced_preview_briefs_pdfs_2010_2011_10_239_PetitionerMcComish.authcheckdam.pdf.

13 *McComish v. Bennett*. No. 10-238 and 10-239 publicized preview briefs from American Bar Association. (2010) p. 72. Available at http://www.americanbar.org/content/dam/aba/publishing/preview/publiced_preview_briefs_pdfs_2010_2011_10_239_PetitionerMcComish.authcheckdam.pdf.

14 Sarah Fenske, “The Dirty Truth about ‘Clean’ Elections,” *Phoenix New Times*.(4/2/09)p. 6. Retrieved on 7/6/11.<http://www.phoenixnewtimes.com/2009-04-02/news/the-dirty-truth-about-clean-elections/>.

families. Dale then promptly used the public funds to purchase a camera, two computers, and a full set of software totaling over \$4,000, which she kept after the campaign had concluded.¹⁵¹⁶

Much of the remaining money was used to attack Democratic Candidate Jackie Thrasher, although an additional \$10,500 was spent on “polling/research,” rare for a legislative campaign.¹⁷ The Republicans involved in Dale’s campaign have stated they are merely interested in working toward “results” and have benign bipartisan interests at heart in supporting her campaign. The Green Party actively campaigned against Dale, claiming she did not actually support their ideals.¹⁸

Other Issues

Republican Andre Campos, who ran in 2008, was granted \$35,841¹⁹ in public funds for his unsuccessful Senate bid, spending \$23,155 of it at a company he owned, Image Design Communications.²⁰

John Fillmore, a Republican running for state representative in Apache Junction, paid himself \$2,861 in “petty cash/miscellaneous” expenses from his matching funds, ostensibly to avoid his bank’s checking fees. He also paid \$17,350 to Mesa attorney Daniel Washburn for “communications.”²¹

Fiesta Bowl Scandal

In early 2011, an investigation into possible illegal campaign financing was launched that investigated the alleged reimbursement of employees of Fiesta Bowl, Arizona’s Frito-Lay-sponsored football game played annually at the University of Phoenix Stadium in Glendale, Arizona. The company was alleged to have reimbursed employees for donations worth over \$46,000 made to 23 candidates since at least 2002. The report also alleged that employees went on at least seven trips with politicians and mentioned a “bipartisan array of more than a dozen former and current state lawmakers who joined lobbyists and bowl representatives for football weekends in Chicago, Boston, Atlanta, and Dallas,

15 <http://newsblaze.com/story/2010091306220200001.pnw/topstory.html>.

16 Sarah Fenske, “The Dirty Truth about ‘Clean’ Elections,” *Phoenix New Times*.(4/2/09) p. 1.Retrieved on 7/6/11. Available at: <http://www.phoenixnewtimes.com/2009-04-02/news/the-dirty-truth-about-clean-elections/>.

17 Sarah Fenske, “The Dirty Truth about ‘Clean’ Elections,” *Phoenix New Times*.(4/2/09) p. 4.Retrieved on 7/6/11. Available at: <http://www.phoenixnewtimes.com/2009-04-02/news/the-dirty-truth-about-clean-elections/>.

18 <http://azcentral.com/news/articles/2008/10/25/20081025westsideraces1025.html>.

19 2008 Primary and General Election Summaries.Arizona Clean Elections Commission. Retrieved 8/3/11. <http://www.azcleelections.gov/forms-pubs/archive/2008/publications.aspx>.

20 Sarah Fenske, “The Dirty Truth about ‘Clean’ Elections,” *Phoenix New Times*.(4/2/09) p. 3.Retrieved on 7/6/11. <http://www.phoenixnewtimes.com/2009-04-02/news/the-dirty-truth-about-clean-elections/>.

21 Sarah Fenske, “The Dirty Truth about ‘Clean’ Elections,” *Phoenix New Times*.(4/2/09) p. 3. Retrieved on 7/6/11. <http://www.phoenixnewtimes.com/2009-04-02/news/the-dirty-truth-about-clean-elections/>.



among other cities.”²²

AZCentral.com noted that “the football junkets, which included some lawmakers’ family members, included pricey dinners, stays in high-dollar hotels and invites to marquee football games.” When the Arizona Senate Ethics Committee released its report in late March 2011, lawmakers scrambled to amend their disclosure reports and pay for freebies received during campaigns. Fiesta Bowl confirmed that Sen. Paula Aboud (D-Tucson), Sen. Robert Meza (D-Phoenix), and Sen. Michele Reagan (R-Scottsdale) – “wrote checks to retroactively pay for free tickets they received while on the out-of-state trips, which were billed as ‘educational’ events designed to show support for the Fiesta Bowl, given the competitive nature of college football.”²³ Meza and Aboud had both been clean elections candidates during their political careers according to the Arizona Clean Elections Commission.

Many of the politicians claimed to have been unaware that accepting the perks ran afoul of campaign finance regulations and were eager to pay what was owed to the Fiesta Bowl.²⁴

The Fiesta Bowl Special Committee, having completed a separate investigation into the scandal, concluded in its 2011 report that between 2000 and 2010, the Fiesta Bowl reimbursed at least 21 employees a total of \$46,539. The Committee also concluded that over that time period no less than 25 Arizona candidates or political entities were donated funds by employees that were illegally reimbursed by the company, listing the recipients as follows:²⁵

Carolyn Allen	Jon Kyl (US Senator)
Arizona Republican Party	Jim Lane
AZ Wins	Mary Manross
Ken Bennett	Phil Martin
Jan Brewer (AZ Governor)	John McCain (US Senator)
Scott Bundgaard	Harry Mitchell
Ted Carpenter	Navarro for City Council
Christopher Cummisky	Russell Pearce
Jake Flake	Pete Rios
Mike Gardner	John Shadegg
J.D. Hayworth	James Weiers
Laura Knaperek	Mary Wilcox
Andrew Kunasek	

22 Ginger Rough. “Fiesta Bowl scandal prompts Senate ethics inquiry.” The Arizona Republic. (4/1/11). Retrieved 7/15/11. Available at <http://www.azcentral.com/news/articles/2011/04/01/20110401fiesta-bowl-investigation-fallout.html>.

23 *Ibid.*

24 *Ibid.*

25 Final Report: Public Version. Counsel to the Special Committee of the Board of Directors of the Fiesta Bowl. p. 32. 3/21/11. Retrieved 8/15/11. http://www.fiestabowl.org/_documents/reports/Fiesta_Bowl_Final_Public.pdf.

According to the Committee, the above named were not interviewed and may have had no knowledge of the reimbursement activity.²⁶ When informed of the reimbursements, spokesmen for Sen. John McCain, Gov. Jan Brewer, and Sen. Jon Kyl all indicated they were not considering returning the donations. McCain reportedly received \$19,500 “over several election cycles,” while Kyl received \$3,000.²⁷

In August 2011, the Fiesta Bowl found itself again the subject of scrutiny when it was reported they received a “kickback” of \$8 million over 20 years from the Arizona Visitor’s Bureau in exchange for requiring their teams and other affiliated groups to stay in Scottsdale and other nearby hotels.²⁸

Ed Ableser

A 2004 Democratic House candidate from Tempe, Arizona, Ableser was granted \$7,000 too late in the campaign to spend it on actual campaigning. Rather than return the funds to the state, Ableser allegedly threw a party, using public money to reimburse his father \$1,118 for party expenses, spent \$287 on a “frozen drink” machine, and randomly appointed a campaign staffer as a consultant and paying her \$3,628. The Arizona Clean Elections Commission investigated and fined Ableser \$1,566.²⁹ Ableser had received a total of \$50,857 in public campaign money.³⁰

26 Final Report: Public Version. Counsel to the Special Committee of the Board of Directors of the Fiesta Bowl. pp. 29-33. 3/21/11. Retrieved 8/15/11. http://www.fiestabowl.org/_documents/reports/Fiesta_Bowl_Final_Public.pdf.

27 Howard Fischer, Capital media services. “McCain, Kyl, Brewer won’t return Fiesta Bowl donations.” *East Valley Tribune*. 5/24/11. Retrieved 8/15/11. http://www.eastvalleytribune.com/arizona/politics/article_120b3342-8646-11e0-bfb2-001cc4c002e0.html.

28 McClatchy news services. “Fiesta under fire for alleged ‘kickback: College football: Group questions BCS bowl’s relationship with visitor’s bureau.” *The Olympian*. 8/13/11. Retrieved 8/15/11. <http://www.theolympian.com/2011/08/13/1759231/fiesta-under-fire-for-alleged.html>.

29 “A toast to questionable campaign expenditures.” AZCentral.com 1/1/06. Retrieved 8/2/11. <http://www.azcentral.com/arizonarepublic/local/articles/0101polinsider01.html>.

30 2003-2004 General Summary. Arizona Citizens Clean Elections Commission. p. 9. Retrieved 8/2/11. <http://www.azcleelections.gov/forms-pubs/archive/2004.aspx>.



Arizona “Clean Elections” abuses summary³¹

Candidate	Election Year/Office	Campaign Finance Abuse	Disbursement (Lifetime)
Yuri Downing (L)	2002 House	Indicted on misuse of \$100K in matching funds.	\$26,970
Trevor Clevenger (L)	2002 House	Fined \$15K for collusion with Downing	\$26,970
Paul DeDonati (L)	2002 House	Fined \$15K for collusion with Downing	\$26,970
Robert Green (R)	2010 Senate	Indicted for filing false documents; fined \$9K	Denied funds
Sam George (aka Sam Vagenas) (D)	2008 Corporate Commissioner	“Solar Team” leader who gamed public funds system, triggering nearly \$1M in matching funds for his Solar Team “opponents.”	Self-funded
Paul Newman (D)	2008 Corporate Commissioner	“Solar Team” member who gamed public funds system.	\$489,776
Sandra Kennedy (D)	2008 Corporate Commissioner	“Solar Team” member who gamed public funds system.	\$489,776
Margarite Dale (G)	2008 House	Fake Green Party candidate who gamed public funds system to divert matching funds to Republican candidates.	\$71,067
Andre Campos (R)	2008 Senate	Paid his own company \$23K from matching funds	\$32,303
John Fillmore (R)	2008 House	Paid himself \$2,861 in “petty cash” from public funds	\$80,046
Paula Aboud (D)	2010 Senate	“Fiesta Bowl” perks	\$53,716
Robert Meza (D)	2010 Senate	“Fiesta Bowl” perks	\$22,979
Ed Ableser (D)	2004 House	Threw \$1,118 party, gave \$3,628 to staffer, bought \$287 drink machine with funds disbursed late in campaign	\$108,346

Total public funds granted to Arizona “clean elections” candidates who were investigated for abuses between 2001 and 2011: \$1,428,919.

³¹ Arizona Citizens Clean Elections Commission. <http://www.azcleelections.gov/election-data/search.aspx#>.

II. Maine

In November 1996, voters in Maine approved a ballot initiative, the Main Clean Election Act (MCEA) establishing a system of public financing and voluntary spending limits for governor, state senator, and state representative. Candidates who raise a threshold number of small contributions from registered voters in their district and agree not to raise any more private money qualify for a fixed amount of public financing on their campaign.

A 2007 report on the MCEA, prepared by the Main Commission on Governmental Ethics and Election Practices (MCGEEP), details numerous instances of corruption. Examples ranging from several relatively minor instances of candidates inappropriately using MCEA funds for personal expenses, like paying car maintenance costs,³² to a variety of serious misuses such as the forging of signatures in order to meet the qualifying contribution requirement,³³ demonstrate that the program has not succeeded in eliminating corruption.

Major Issues

According to Chris Cinquemani of the Maine Heritage Policy Center, Maine's so-called "clean elections" rules actually draw more money into campaigns as legislators find creative ways around campaign limitations. "The Clean Elections law has actually resulted in a lot of behind-the-scenes money being generated by leadership PACs and by other organizations to support legislative candidates and candidates for governor."³⁴ Cinquemani also noted in an interview with the Maine Public Broadcasting Network in May 2011 that spending limitations that come with public matching funds have encouraged many candidates to operate through PAC's, to the detriment of transparency. "...[Rather] than a candidate having very detailed records of all the private funds that they were able to raise and expend, you then have these political action committees who are making those expenditures on their behalf, and that's not nearly as transparent to the public as it would be if the candidate was making those filings on their own."³⁵

32 Maine Commission on Governmental Ethics and Election Practices, "2007 Study Report: Has Public Funding Improved Maine Elections?" (April 2007) p. 84. http://www.maineclanelections.org/assets/files/2007_study_report.pdf.

33 Maine Commission on Governmental Ethics and Election Practices, "2007 Study Report: Has Public Funding Improved Maine Elections?" (April 2007) p. 86. http://www.maineclanelections.org/assets/files/2007_study_report.pdf.

34 Tom Porter. "Bills Would Weaken—or Eliminate—Maine's Clean Election Act."The Maine Public Broadcasting Network. (5/11/2011). Retrieved 7/15/11. <http://www.mpbn.net/Home/tabid/36/ctl/ViewItem/mid/3478/ItemId/16355/Default.aspx>.

35 Tom Porter. "Bills Would Weaken—or Eliminate—Maine's Clean Election Act."The Maine Public Broadcasting Network.(5/11/2011). Retrieved 7/15/11. <http://www.mpbn.net/Home/tabid/36/ctl/ViewItem/mid/3478/ItemId/16355/Default.aspx>.



Candidates Recruited for Electoral Advantage

Another way candidates in Maine have abused the matching funds system, according to the 2007 Report on the Maine Clean Election Act, is by recruiting non-MCEA candidates to run against them in order to trigger matching funds for a contested primary, which is greater than for an uncontested race. In the 2004 and 2006 elections, there were three races where this appeared to be the case, in the judgment of the Commission. The Commission had become aware of the practice when two of the non-MCEA candidates themselves reported the activity to the Commission, which recommended the practice be prohibited as a pre-condition for participating in the MCEA and make it ground for revocation of certification.³⁶

Julia St. James

According to the MCGEEP report, St. James was recruited to run for a senate seat as an independent with the “Fourth Branch Party” by political operatives Dan Rogers and Jessica Larlee. St. James received \$36,307 in campaign funds and paid over \$11,000 to Rogers and Larlee, but later complained that she received no services for which she paid him large fees. The Commission disallowed a \$5,000 payment to Rogers, and found that he submitted false invoices in response to a request by the Commission for supporting documentation for his services.

The candidate herself could not produce supporting documentation for \$5,769.25 in cash expenditures, failed initially to return equipment and goods purchased with MCEA funds, and used public funds to purchase non-campaign-related items. She was ordered to repay \$11,088.15 in MCEA funds and fined \$15,000. Dan Rogers was fined \$17,500 for using MCEA funds for non-campaign purposes and for submitting false documents to the Commission.³⁷

Sarah Trundy

According to the MCEA report, Trundy ran for a House seat as a Green Independent Party candidate, receiving a total of \$4,487 in MCEA funds. The campaign claimed it spent nearly \$3,000 for a series of postcard mailings but could not produce any supporting documents or a person who received or even saw a postcard, including the candidate. Trundy also couldn’t remember her opponent’s name. The Commission concluded that her consultants recruited her to run so they could access MCEA funds, fining one of them \$15,500 and ordering the candidate to return nearly \$3,000 in public funds.³⁸

36 Maine Commission on Governmental Ethics and Election Practices, “2007 Study Report: Has Public Funding Improved Maine Elections?” (April 2007) p. 87, available at: http://www.mainecelelections.org/assets/files/2007_study_report.pdf.

37 Maine Commission on Governmental Ethics and Election Practices, “2007 Study Report: Has Public Funding Improved Maine Elections?” (April 2007) p. 87. http://www.mainecelelections.org/assets/files/2007_study_report.pdf.

38 Maine Commission on Governmental Ethics and Election Practices, “2007 Study Report: Has Public Funding Improved Maine Elections?” (April 2007) p. 85. http://www.mainecelelections.org/assets/files/2007_study_report.pdf.

John M. Michael

In addition to abuses of matching funds in Arizona, the Commission found irregularities with candidates who were trying to qualify for matching funds. John M. Michael, a former State Representative ran as an independent candidate for Governor in 2006. Michael submitted more than 2,500 qualifying contributions but was ultimately denied MCEA funding by the Commission staff, according to the MCEA report. The staff found that 746 of the 2,690 qualifying contributions submitted were invalid for a variety of reasons, including 183 not being registered to vote and 50 more “not meeting basic requirements.”

During routine phone calls to contributors, MCEA staff found that 8.3% of the supposed contributors (18 out of 218 called) denied making any contribution at all to Michael’s campaign, suggesting more widespread fraud may have been present. Several claimed to have been misled by the candidate’s staff as to the nature of the paperwork they were signing (believing they were signing an acknowledgement of support when in fact it was an acknowledgement of contribution), further raising suspicion.

Michael appealed the finding of MCEA staff and a hearing with the Commission was scheduled, but delayed on request of the candidate who complained he could not receive a fair hearing due to the fact that Commission members were all politically affiliated and would be “biased against him” as an independent candidate. When a vacant Commission seat was filled with an independent member, Michael withdrew his appeal and later withdrew his candidacy.³⁹

Peter Throumoulos

A 2006 primary election candidate for State Senate, Throumoulos was denied MCEA funds because a significant number of signatures he collected from contributors were shown to have been forged (several of the contributors themselves being deceased). Throumoulos was indicted on multiple counts of fraud.⁴⁰

Afterthoughts by Participants

While generally supportive of the matching funds system, many former participating candidates expressed misgivings about shortcomings in the program, including the difficulty in qualifying and in preventing the outside expenditures of political machines.

2006 Gubernatorial candidate Barbara Merrill gave a short report on her “clean election” experience in the Commission’s 2007 report, noting that “The illusion that there is no collusion between the

mainecleanelections.org/assets/files/2007_study_report.pdf.

39 Maine Commission on Governmental Ethics and Election Practices, “2007 Study Report: Has Public Funding Improved Maine Elections?,” (April 2007) p. 85-86. http://www.mainecleanelections.org/assets/files/2007_study_report.pdf.

40 Maine Commission on Governmental Ethics and Election Practices, “2007 Study Report: Has Public Funding Improved Maine Elections?,” (April 2007) p. 86, http://www.mainecleanelections.org/assets/files/2007_study_report.pdf.



campaigns for Governor and political parties is a legal fiction. Spending by the campaigns and the Democratic or Republican parties can be choreographed by advisors helping both organizations.” She noted that party organizations and legislative caucuses were gaming the system, “encouraging their candidates to be publicly funded, and are raising and spending huge amounts to influence elections,” which does not trigger matching funds. She also noted: “it is very difficult for the Commission to prevent collusion because it is difficult to prove.”⁴¹

2006 Gubernatorial candidate Peter Mills reported: “The system of qualifying as a candidate for Governor is a nightmare. Collecting the \$5 checks and verifying the contributors’ voter registration was a horrible rat-race that involved enormous amounts of travel.”⁴²

The Commission’s report also noted the complaints of privately-funded candidates. Some opponents of the system noted the public funding system was easily abused by candidates who were not serious about running, buried them in burdensome paperwork that distracted them from campaigning, as well as enabled publicly-funded opponents to falsely label them “dirty” candidates because they could not or did not participate in the “clean elections” program.⁴³

As far back as 2001, former participating candidates voiced misgivings about the program. One candidate commented in an anonymous survey that “it is my feeling that the Clean Elections Law has created a soft money program, not the intent of the law in the first place. Not that anyone is doing anything illegal, but it appears the creation of new PAC’s has arisen to legally get around the law.”⁴⁴

Maine Green Energy Alliance Slush Fund Allegations

In February 2011, the Maine Republican Party demanded an investigation into activities by the Maine Green Energy Alliance, claiming the operation was a Democratic “slush fund,”⁴⁵ with at least

41 Maine Commission on Governmental Ethics and Election Practices, “2007 Study Report: Has Public Funding Improved Maine Elections?” (April 2007) p. 60. http://www.maineclipselections.org/assets/files/2007_study_report.pdf.

42 Maine Commission on Governmental Ethics and Election Practices, “2007 Study Report: Has Public Funding Improved Maine Elections?” (April 2007) p. 61. http://www.maineclipselections.org/assets/files/2007_study_report.pdf.

43 Maine Commission on Governmental Ethics and Election Practices, “2007 Study Report: Has Public Funding Improved Maine Elections?” (April 2007), p. 30-31.

44 Report of the Commission on Governmental Ethics and Election Practices to the Joint Standing Committee on Legal and Veterans Affairs, Documenting, Evaluating and Making Recommendations Relating to the Administration, Implementation and Enforcement of the Maine Clean Election Act and Maine Clean Election Fund. p 184. Retrieved 8/16/11. http://www.maine.gov/ethics/pdf/publications/2001_mcea_report.pdf.

45 BDN Staff and Wire Reports. “Maine GOP accuses weatherization program of being ‘slush fund for democrats.’” Bangor Daily News. 2/15/11. Retrieved 8/1/11. <http://bangordailynews.com/2011/02/15/politics/maine-gop-accuses-weatherization-program-of-being-slush-fund-for-democrats/>.

one lawmaker receiving weatherization retrofits on her private residence from the \$1.1 million dollar project financed by a federal energy grant as part of the “Retrofit Ramp-Up” portion of the federal stimulus plan.⁴⁶ There were also allegations that the operation hired a suspicious number of state Democratic lawmakers: three sitting Democratic House members and one Democratic candidate, in addition to several high-level staffers and donors were hired for a 13-member staff, a problem acknowledged by MGEA head Tom Federle.

There was also some suspicion among investigators at the Joint Committee for Energy, Utilities and Technology that the staff had canvassed the neighborhoods they were working in using the allocated funds.⁴⁷ Current Maine House minority leader Emily Cain was alleged to have received a home energy audit courtesy of the program, a charge she vehemently denied.⁴⁸

Seven members of the Alliance, which received its federal grant with the help of Maine governor John Baldacci, were named as having strong ties to the Democratic Party. (The head of the Alliance, Tom Federle, former counsel to the governor, was not named among the seven listed by the investigators):⁴⁹

Steve Butterfield	D-Bangor, Maine House of Representatives; hired as process facilitator
Jim Martin	D-Orono, Maine House of Representatives; hired as process facilitator
Shelby Wright	D-Hampden, candidate for Maine HOR; community outreach
Melissa Walsh Innes	D-Yarmouth, Maine House of Representatives; community outreach
Gabrielle Berube	Travelling aid for Democratic legislator and Democratic Party worker; hired as process facilitator
Tom Battin	IT director for Obama Maine campaign; hired as field organizer
Jed Rathband	Democratic activist; hired as consultant, later staffer

46 Naomi Schalit. “Energy program shut down after questions raised about politics, effectiveness.” *Pine Tree Watchdog*, published by Maine Center for Public Interest Reporting. 1/31/11. Retrieved 8/1/11. <http://pinetreewatchdog.org/2011/01/31/energy-program-shut-down-after-questions-raised-about-politics-effectiveness/>.

47 Naomi Schalit. “Legislators demand answers from green energy group.” *Pine Tree Watchdog*, published by Maine Center for Public Interest Reporting. 2/21/11. Retrieved 8/1/11. <http://pinetreewatchdog.org/2011/02/21/legislators-demand-answers-from-green-energy-group/>.

48 BDN Staff and Wire Reports. “Maine GOP accuses weatherization program of being ‘slush fund for democrats.’” *Bangor Daily News*. 2/15/11. Retrieved 8/1/11. <http://bangordailynews.com/2011/02/15/politics/maine-gop-accuses-weatherization-program-of-being-slush-fund-for-democrats/>.

49 Naomi Schalit. “Energy group funded via state hired Democratic legislators, activists, donors.” *The Forecaster*. 2/7/11. Retrieved 8/1/11. <http://pinetreewatchdog.org/2011/02/07/energy-group-funded-via-state-hired-democratic-legislators-activists-donors/>.



Most of the money spent to weatherize a mere 50 homes seemed to be taken up by the salaries of its well-connected employees. The Alliance spent \$355,000 in its first year, over half of which was taken up by the salary of the Executive Director and nine paid staff members. It also spent \$47,000 on legal fees to Federle.⁵⁰

The Maine Green Energy Alliance was defunct as of January 2011, having forfeited the unused portion of the fund after falling far behind its intended goals. In May, the Joint Committee on Energy, Utilities, and Technology voted unanimously to ask the Office of Program Evaluation and Government Accountability to launch a formal investigation. During Committee meetings even some Democrats voiced suspicion about MGEA’s activities. Rep. Mark Dion of Portland noted “... for the record there are some questions that deserve to be answered.”⁵¹ The investigation is ongoing.

Maine “Clean Elections” abuses summary⁵²

Name	Year/Election	Allegation	Disbursement (lifetime)
Julia St. James (I)	2004 Senate	Misuse of public funds; ordered to repay \$11K and fined \$15K	\$36,621
Sarah Trundy (G)	2004 House	Fake candidate set up to game public campaign funds system	\$4,488
John M. Michael (I)	2006 Governor	Faking qualifying contributions and deceiving supporters	“Privately Financed”
Peter Throumoulos (D)	2006 Senate	Forging signatures to qualify for matching funds	\$18,305
Emily Cain (D)	2010 House	Accepting consultation in violation of state law	\$17,481
Steve Butterfield (D)	2010 House	MGEA collusion; possible illegally campaigning with public funds	\$13,069

50 “Our View: Energy group failure exposes hole.” *Portland Press Herald*.2/7/11. Retrieved 8/2/11. http://www.pressherald.com/opinion/energy-group-failure-exposes-hole-in-system_2011-02-07.html.

51 Naomi Schalit. “Lawmakers deepen probe of Maine Green Energy Alliance.” *The Forecaster*.5/2/11. Retrieved 8/1/11. <http://www.theforecaster.net/content/pnms-energy-alliance-probe-050411>.

52 Maine Commission on Government Ethics and Election Practices.<http://www.mainecampaignfinance.com/Public/SearchPages/ContributionSearch.aspx?SearchType=Basic&Entity=CAN>.

Jim Martin (D)	2010 House	MGEA collusion; possible illegally campaigning with public funds	\$9,986
Shelby Wright (D)	2010 House	MGEA collusion; possible illegally campaigning with public funds	\$8,720
Melissa Walsh Innes (D)	2010 House	MGEA collusion; possible illegally campaigning with public funds	\$18,571

Total public funds granted to Maine “clean elections” candidates investigated for abuses between 2001 and 2011: \$127,241.

III. New York City

New York City’s voluntary Campaign Finance Program, begun in 1988, provides public matching funds to candidates for mayor, public advocate, comptroller, borough president, and City Council candidates who qualify. Candidates who raise over a minimum threshold from individual contributions of up to \$175 become eligible for large matching funds at a ratio of \$6 in public granted money for every \$1 raised, with a maximum of \$1,050 in public funds granted per contributor. Candidates must have an opponent on the ballot, be on the ballot themselves, and comply with all finance regulations, or face fines. In some situations, higher bonus rates may apply if a candidate who participates in the program is running against a non-participating candidate.⁵³

...“the Public Fund has helped to finance possibly unnecessary campaign expenses and uncompetitive campaigns.”

By its own account, the New York City Campaign Finance Board has come up short in fulfilling the goals of the program to “level the playing field” in favor of candidates with fewer fundraising resources. In its 2003 report, the CFB lamented that “the Program’s requirements... appear to have contributed to greater disparities between office holders’ and challengers’ campaign finances...” The Board further admitted that “the Public Fund has helped to finance possibly unnecessary campaign expenses and uncompetitive campaigns.”⁵⁴

53 New York City Campaign Finance Board FAQ’s. http://www.nyccfb.info/press/info/faq.aspx?sm=press_00.

54 “City Council Elections: A Report by the Campaign Finance Board.” Vol. 1, Sep. 2004. p. 9. Campaign Finance Board of New York City. Retrieved 8/10/11. http://www.nyccfb.info/PDF/per/2003_PER/PER_complete.pdf.



The Working Families Party/Data & Field Services Scandal (2009-2011 ongoing)

New York's strict campaign finance laws have seemingly been ineffective in reigning in campaign spending, and its public matching system has been abused in a number of instances since its passage. In August 2009, an investigation by the City of New York into misuse of funds during the 2009 campaign began. Six city council candidates and public advocate candidate Bill de Blasio, who were supported by a non-profit organization called the Working Families Party, were investigated for "A complicated web of coordinated activities, shared resources and staff, and quiet money transfers" between the Working Families Party and its for-profit affiliate, Data and Field Services, a company that candidates and WFP paid to do canvassing and other field operations. The campaigns appeared to have found a way to circumvent New York City's campaign finance laws by paying Data and Field Services vastly beyond the \$10,000 limit that candidates can pay to political parties for campaign-related activities.⁵⁵

Incorporated in February 2007, Data and Field Services was created, according to its founder, WFP attorney Kevin Finnegan, for the very purpose of skirting campaign finance limits. According to an interview Finnegan granted to the *New York Post*, by creating a separate operation, candidates don't have to hire WFP, avoiding potential issues with campaign-finance laws that limit direct contributions to political parties.⁵⁶

In New York City, the \$10,000 limit⁵⁷ applies to donations to non-profit political entities and parties; private companies who do for-profit business with campaigns are exempt. By setting up a for-profit company that turns no profit, WFP and its favored candidates were able to game the campaign finance system to their advantage, drawing the ire of Republican candidates, who asked City Hall to investigate in April 2009. *City Hall News* reported in August 2009 that WFP and nine candidates it backed transferred over \$800,000 in funds to DFS through mid-July, well beyond the legal limit. Because private companies who work for campaigns are not subject to the same accounting scrutiny by authorities as non-profits, how DFS actually spent the money was unclear.⁵⁸

55 Edward-Isaac Dove. CITY HALL SPECIAL INVESTIGATION REPORT: Six Council Campaigns, De Blasio Campaign, Discovered Using Working Families Staff, Resources, in Test of City Finance Limits. *City Hall News*. (8/9/2009) p 1. Retrieved on 7/15/11. <http://www.cityhallnews.com/2009/08/city-hall-special-investigative-report-six-council-campaigns-de-blasio-campaign-discovered-using-working-families-staff-resources-in-test-of-city-finance-limits/>.

56 Brendan Scott and David Seifman. "GOP SLAMS WORKING FAMILIES 'GAME' PLAN." *New York Post*. (4/1/2009). Retrieved 7/15/2011. http://www.nypost.com/p/news/regional/gop_slams_working_families_game_eAk2I7uyx4hBYXQYAOpjJ.

57 Ladyimpactohio. "The Incestuous Relationship Between Working Families Party and Data & Field Services, part II." redstate.com. (7/27/year unknown). Retrieved 7/15/11. <http://www.redstate.com/ladyimpactohio/2010/07/27/the-incestuous-relationship-between-working-families-party-data-field-services/>.

58 Edward-Isaac Dove. CITY HALL SPECIAL INVESTIGATION REPORT: Six Council Campaigns, De Blasio Campaign, Discovered Using Working Families Staff, Resources, in Test of City Finance Limits. *City Hall News*. (8/9/2009) p 2. Retrieved on 7/15/11. <http://www.cityhallnews.com/2009/08/city-hall-special-investigative-report-six-council-campaigns-de-blasio-campaign-discovered-using-working-families-staff-resources-in-test-of-city-finance-limits/>.

Among the city council candidates who paid for DFS services were Jimmy Van Bramer, Daniel Dromm, Debi Rose, Brad Lander, S. J. Jung, and Jumaane Williams.⁵⁹

Debi Rose, who was formally endorsed by WFP on February 5, 2009, spent a total of \$45,000 on DFS services, having also received taxpayer-funded matching grants of approximately \$88,000.⁶⁰

Julissa Ferreras spent \$17,000 on DFS services during her successful bid for city council in a special election in 2009. Ferreras received \$72,480 in public matching funds.^{61 62}

Jimmy Van Bramer paid DFS \$4,700 for signature collection and campaign material distribution. Van Bramer's campaign finance disclosures claimed to have not paid any money to WFP. However, according to *City Hall News*, Working Families Party's State Board of Elections campaign finance disclosures show a check from Bramer's campaign for \$4,700, "cashed and logged" on July 7, 2009. *City Hall News* concluded that Van Bramer's check was likely paid to DFS and cashed by Working Families Party, further evidence of the blurring together of these supposedly separate entities.⁶³ Van Bramer received \$84,122 in public matching funds.⁶⁴

The lines between the organizations seem to be blurred so much, in fact, that it's doubtful whether DFS actually exists as a separate entity. DFS listed its address at 612 2nd Street in the Bronx, the private residence of a supposed former WFP accountant named George Short (as identified by WFP Executive Director Dan Cantor, though he could provide no contact information). The company had

com/2009/08/city-hall-special-investigative-report-six-council-campaigns-de-blasio-campaign-discovered-using-working-families-staff-resources-in-test-of-city-finance-limits/.

59 Edward-Isaac Dovere. CITY HALL SPECIAL INVESTIGATION REPORT: Six Council Campaigns, De Blasio Campaign, Discovered Using Working Families Staff, Resources, in Test of City Finance Limits. *City Hall News*.(8/9/2009). p 30.Retrieved on 7/15/11.<http://www.cityhallnews.com/2009/08/city-hall-special-investigative-report-six-council-campaigns-de-blasio-campaign-discovered-using-working-families-staff-resources-in-test-of-city-finance-limits/>.

60 *Ibid.*

61 "New Yorkers Make Their Voices Heard: A Report on the 2009 Elections." New York City Campaign Finance Board.p 118.Copyright New York Campaign Finance Board, (2010).

62 Edward-Isaac Dovere. "CITY HALL SPECIAL INVESTIGATION REPORT: Six Council Campaigns, De Blasio Campaign, Discovered Using Working Families Staff, Resources, in Test of City Finance Limits." *City Hall News*.(8/9/2009) p. 15.<http://www.cityhallnews.com/2009/08/city-hall-special-investigative-report-six-council-campaigns-de-blasio-campaign-discovered-using-working-families-staff-resources-in-test-of-city-finance-limits/>.

63 Edward-Isaac Dovere. "CITY HALL SPECIAL INVESTIGATION REPORT: Six Council Campaigns, De Blasio Campaign, Discovered Using Working Families Staff, Resources, in Test of City Finance Limits." *City Hall News*.(8/9/2009) p. 17.Retrieved on 7/15/11. <http://www.cityhallnews.com/2009/08/city-hall-special-investigative-report-six-council-campaigns-de-blasio-campaign-discovered-using-working-families-staff-resources-in-test-of-city-finance-limits/>.

64 "New Yorkers Make Their Voices Heard: A Report on the 2009 Elections." New York City Campaign Finance Board.Page 28.Copyright New York Campaign Finance Board, (2010) p 28.



no website, phone number, or confirmable employees. It had no ads for employment on Idealist.org or Craigslist, though WFP did have an Idealist.org listing for the types of campaign jobs matching the description of those done by DFS. Campaign finance disclosures from WFP indicated that WFP and DFS had split expenditures totaling over \$42,000 for transporting canvassers to locations by rental car as if they were a single entity. *City Hall News* opined that “in other words, the WFP and DFS do not show clear separations between them—not in office space, not in staffing, not in payroll, not in accounting for expenditures and not in hiring.”⁶⁵

Many of DFS’s supposed employees seem to actually be employed by Working Families Party. Saba Debesu, who in 2009 was listed in the contact information for WFP’s “organizing intern” program on the WFP website and has a WFP email address, was employed fielding calls for WFP-endorsed city council candidate Jumaane Williams. William’s campaign paid \$4,000 to DFS on June 16, 2009. In contrast, they paid a mere \$100 contribution to WFP, according to campaign finance disclosures.⁶⁶

Daniel Dromm, another city council candidate, apparently paid WFP employee Melody Lopez to work as a campaign manager. Lopez told *City Hall News* during the election that she was “on leave” from WFP while working for the campaign and that all of her pay came from the campaign through DFS. She did indicate that her leave was not “official” and she was still receiving her normal salary from WFP. The Dromm campaign’s disclosures indicated a \$2,600 payment to DFS, though Dan Cantor of WFP indicated the contract was for a much larger amount and would total over \$40,000 by the end of the campaign.⁶⁷

Public advocate candidate Bill de Blasio sent a payment of \$10,435 to CFS on July 2, 2009 with “plans to pay more” according to *City Hall News*. This was in addition to the maximum \$10,000 contribution to WFP in October 2008, about two weeks before he decided to run for public advocate. De Blasio was described as a “key player” in the formation of WFP in 1998 by Dan Cantor. “We’re friends with everyone else who’s running, but we have a special bond to him and we’re trying to make sure that that is known.”⁶⁸ De Blasio was subpoenaed along with WFP December 2009 by the U.S. Attorney’s office for the Southern District of New York during their probe into WFP’s activities.⁶⁹

Two years hence, the Data and Field Services problem is ongoing. A May 19, 2011 report in *City Hall News* indicated that DFS recently resisted a court order to completely separate itself from WFP and

65 Edward-Isaac Dove. “CITY HALL SPECIAL INVESTIGATION REPORT: Six Council Campaigns, De Blasio Campaign, Discovered Using Working Families Staff, Resources, in Test of City Finance Limits.” *City Hall News*. (8/9/2009). p. 11. Retrieved on 7/15/11. <http://www.cityhallnews.com/2009/08/city-hall-special-investigative-report-six-council-campaigns-de-blasio-campaign-discovered-using-working-families-staff-resources-in-test-of-city-finance-limits/>.

66 *Ibid.*, 19.

67 *Ibid.*, 19.

68 *Ibid.*, 24, 29.

69 Azi Paybarah. “U.S. Attorney Subpoenas Working Families Party, and Bill de Blasio Too.” (12/15/09). *Observer.com*, retrieved 7/18/11. <http://www.observer.com/2009/politics/us-attorney-subpoenas-working-families-party-bill-de-blasio>.

fire its executive director, or reconstitute as a non-profit entity. DFS protested that it needs to remain close to WFP in order to stay effective and relies on WFP for the majority of its contracts. According to Randy Mastro, who represents the litigants against DFS: “They never say there’s any separation of space or any real separation of personnel... They say the WFP needs the DFS’s people there so vitally, so close at hand, that they need to be there...operating in the same office with the same people.”⁷⁰

1199 SEIU/AFL-CIO Problems

New York City Council candidates have been investigated for a number of other potential abuses of the matching funds program, as well as collusion with New York’s Health and Human Services Union, 1199/SEIU, AFL-CIO (sometimes known simply as 1199 SEIU).

SEIU’s well-documented involvement with Fernando Ferrer’s 2005 mayoral campaign was investigated by CFB and found the relationship between the union and the campaign were sufficiently close to question its legality. According to the CFB report:⁷¹

Notably, key personnel on leave from their positions at 1199 SEIU were involved with organizing the campaign’s field operations and get-out-the-vote efforts, which extensively utilized 1199 SEIU members. Moreover, 1199 SEIU officials attended a campaign strategy meeting in the month the election with Mr. Ferrer and campaign staff. 1199 SEIU also printed and distributed hundreds of thousands of glossy brochures in support of Ferrer.

The board concluded in July 2009 that SEIU’s activity on behalf of the campaign amounted to coordinated activity and assessed a \$10,000 penalty against Ferrer’s campaign committee for accepting over-the-limit and in-kind contributions.⁷²

In October 2007, New York City Councilwoman Annabel Palma was fined \$30,000 by the New York City Campaign Finance Board for illegally coordinating with SEIU during her 2003 campaign. CFB found the union provided in-kind contributions in excess of local limits. She claimed no desire at the time to seek public funding for her campaign in the future, but nevertheless was a participant in the CFB program during the 2009 election season.⁷³

Palma’s close relationship with SEIU didn’t end in 2007, however. She managed to receive *twenty times* the legally limited contribution from SEIU, who skirted campaign finance restrictions by donating

70 Jon Lentz. “Data and Field Services Pushes Back Against Judge’s Order.” *City Hall News*. (5/19/11). Retrieved 7/18/11. <http://www.cityhallnews.com/2011/05/data-and-field-services-pushes-back-against-judge%E2%80%99s-order/>.

71 “New Yorkers Make Their Voices Heard: A Report on the 2009 Elections.” New York City Campaign Finance Board.(2009). p 74. Retrieved 7/19/11. http://www.nycffb.info/PDF/per/2009_PER/2009PostElectionReport.pdf.

72 *Ibid.*

73 Azi Paybarah. “After Fine, Palma Will Reject Matching Funds.” *Observer.com*, (10/17/07). Retrieved 7/19/2011. Available at <http://www.observer.com/2007/after-fine-palma-will-reject-matching-funds-0>.



\$51,675 to her legal defense fund. According to the *New York Post*, individuals, corporations, and unions are ordinarily limited to \$2,750 donations to a council candidate per cycle. By routing its cash through the defense fund, 1199 was able to give Palma an amount greater than all of her other campaign contributions combined, effectively paying her CFB fine without jeopardizing her eligibility for public matching funds.⁷⁴ Palma is currently still a City Council member.

SEIU, an influential force in New York politics, has been able to exert so much influence on the City Council that it managed to steer campaign law in its favor. Council speaker Christine Quinn allowed the City Council to get away with dramatically limiting contributions that were allowed from parties “doing business with the city,” with a significant exception for public-sector unions like the SEIU.⁷⁵

NYC Council Candidates Fail to Return Public Funds After Election

Despite the fact that candidates who face easy election seldom need the extra funds and at the close of election season may return extra money back to the taxpayers, candidates seldom show such restraint. In October 2009, the *New York Post* reported on a number of candidates, both successful and unsuccessful in their bids, who chose to keep the money after the campaigns were over.

City Council candidate Inez Dickens, a Democrat, accepted the maximum allowable, \$21,031 in matching funds to beat her Republican opponent, despite the fact that no Republican had won her Harlem district “in modern memory.” In her previous run, she had easily won re-election with 81% of the vote.⁷⁶ In early 2011, Dickens was found to have owed \$100,000 in back-property taxes dating to 2009 and had been “cited repeatedly for unsafe conditions in Harlem apartment buildings she owns” as well as having been “hiding assets to dodge taxes,” according to *New York Daily News*.⁷⁷

Candidate Mathieu Eugene accepted \$20,132 in matching funds, though apparently his opponents were of such little concern to him he couldn’t recall their names.

In all, *The New York Post* counted at least 20 candidates who were coasting toward victory that nonetheless accepted a total of \$482,527 in taxpayer-funded matching grants.⁷⁸

74 “Labor’s artful dodgers.” *New York Post*. (6/7/2010). Retrieved on 7/19/2011. Available at http://www.nypost.com/p/news/opinion/editorials/labor_artful_dodgers_74Dc9AfQSZCz23TFW1v77H#ixzz0qGjuwmLi.

75 “Labor’s artful dodgers.” *New York Post*. (6/7/2010). Retrieved on 7/19/2011. http://www.nypost.com/p/news/opinion/editorials/labor_artful_dodgers_74Dc9AfQSZCz23TFW1v77H#ixzz0qGjuwmLi.

76 Sally Goldenberg and David Seifman. “Council Members Matche\$ Burn City.” *New York Post* (10/2/09). Retrieved 7/19/11. http://www.nypost.com/p/news/local/council_members_matche_burn_city_yx2CjwcRAsxjOKVVDcRsnN.

77 Erin Einhorn et. al. “Dirty Little Secrets: City Council members have skirted laws, bent rules and abused their power.” *NY Daily News*. 3/20/11. Retrieved 8/9/11.

78 Sally Goldenberg and David Seifman. “Council Members Matche\$ Burn City.” *New York Post* (10/2/09). Retrieved 7/19/11. http://www.nypost.com/p/news/local/council_members_matche_

Similarly, NBC reported in April 2011 that out of 140 candidates who accepted matching funds from the New York Campaign Finance Board during the 2009 election cycle, only one returned the entire balance and a paltry 11 returned any money at all. Out of \$27.3 million in matching funds, candidates had paid back just over \$51,000 as of April 1, 2011.

NBC reported: “Despite the low refund rate, lots of candidates had surplus cash in their campaign accounts after election night. A review of expenditure records shows both winners and losers chose to spend money on all sorts of goods and services – rather than refund taxpayers.”

New York City public advocate Bill de Blasio, for example, used his surplus cash to pay for nine parking tickets and a \$1,083 trip to Puerto Rico. As of April 1, 2011, he had not paid back any of the \$2.2 million dollars in matching funds he received in 2009.

Likewise, New York Comptroller John Liu spent more than \$20,000 on “three volunteer and victory dinners.” NBC New York reported that “According to Campaign Finance Board rules, candidates are only allowed to use public matching funds for one, small post-election volunteer party.” Liu’s campaign countered that no public funds were spent on the events, but campaign rules don’t require candidates to keep separate books for each category, making analysis difficult.

A few weeks after he lost the mayoral race to Michael Bloomberg, Bill Thompson spent \$5,219 throwing himself a fundraiser at Francesco and Giovanni’s Pine restaurant in the Bronx. As of April 1, 2011, Thompson had not paid back any of the more than \$3 million in public funds his campaign received from taxpayers.⁷⁹

Lawrence Seabrook, Corruption, and Slush Funds

Others who have accepted campaign matching funds have been investigated for unsavory behavior indicating the “clean election” tag may be anything but when it comes to New York City politics.

Councilman Lawrence Seabrook, sometimes known informally as “Cash and Carry Larry,”⁸⁰ was charged with a litany of abuses dating back to at least 2003 in a mammoth 66-page, 13-count federal indictment in February 2010.⁸¹ Seabrook, who was re-elected in 2009 with a phenomenal 90.3% of the vote, accepted \$16,542 in public funds from CFB.⁸²

burn_city_yx2CjwcRAsxjOKVVDcRsnN.

79 Chris Glorioso. “Candidates Who Take Public Funds Rarely Pay Back Taxpayers.” NBC New York (4/1/11). Retrieved 7/19/11. <http://www.nbcnewyork.com/news/local/Candidates-Who-Take-Public-Funds-Rarely-Pay-Taxpayers-Back-119099959.html>.

80 Celeste Katz. “Bronx Councilman ‘Cash and Carry Larry’ Seabrook in Trouble Again.” *NY Daily News*. (6/25/10). Retrieved 7/19/11. <http://www.nydailynews.com/blogs/dailypolitics/2010/06/cash-and-carry-larry-seabrook.html>.

81 Alison Gendar and Larry McShane. “Bronx City Council member Larry Seabrook hit with laundry list of corruption charges.” *NY Daily News*. (2/9/10). Retrieved 7/19/11. http://articles.nydailynews.com/2010-02-09/local/27055793_1_list-of-corruption-charges-indictment-bagel.

82 “New Yorkers Make Their Voices Heard: A Report on the 2009 Elections.” New York City



Seabrook's charges, almost too numerous to mention in the confines of this report, include allegedly accepting bribes, extorting money and other questionable behavior that netted him approximately \$200,000 in "illegal rent, expenses and payoffs," including extorting a Bronx boiler company executive who collected a \$283,000 Yankee Stadium contract with Seabrook's alleged assistance.⁸³

Seabrook's indictment refocused attention on the City Council's "slush fund" issue, a long-standing practice whereby the council allows its members to direct public funds into favorite non-profit groups, often run by friends and relatives. Seabrook himself appeared to be one of the worst offenders, according to investigators, funneling over \$1 million into non-profit organizations to benefit his girlfriend and close relatives, in violation of city laws.⁸⁴ The non-profits apparently then gave \$530,000 to his family and mistress.⁸⁵ Despite the indictment, Seabrook has retained his Council seat.

The other councilmembers under investigation for "slush funding" are former councilman Miguel Martinez, who is currently serving five years in prison after admitting he stole more than \$100,000 from non-profits funded with discretionary funds, including one which employed his sister; two aides to ex-Councilman Kendall Stewart pleaded guilty to stealing \$145,000 from nonprofits he controlled. Stewart, a Brooklyn Democrat, steered hundreds of thousands of dollars to the groups. (He was not charged but lost a bid for re-election in November, partly because of the scandal); Richard Izquierdo, nephew of Councilwoman Maria del Carmen Arroyo (D-Bronx), was indicted for stealing from affiliates of several nonprofits. He pleaded not guilty; Arroyo and her mother, New York Assemblywoman Carmen Arroyo, allegedly steered hundreds of thousands of city and state dollars into the non-profits run by Izquierdo and the councilwoman's sister;⁸⁶ Erik Dilan of Brooklyn, who allegedly funneled \$187,000 to a group that apparently "employs only his wife," Councilwoman Maria del Carmen Arroyo; and Hiram Monserrate of Queens, who allegedly "directed more than \$400,000 in city funds to an organization run by top aides." Many of the "slush" funds were steered to organizations that were either not registered with the Attorney General or appeared to not even exist.⁸⁷

Campaign Finance Board.(2009). p 119. Retrieved 7/19/11. http://www.nyccfb.info/PDF/per/2009_PER/2009PostElectionReport.pdf.

83 Alison Gendar and Larry McShane. "Bronx City Council member Larry Seabrook hit with laundry list of corruption charges." *NY Daily News*. (2/9/10). Retrieved 7/19/11. http://articles.nydailynews.com/2010-02-09/local/27055793_1_list-of-corruption-charges-indictment-bagel.

84 Greg B. Smith. "New York City Council chicanery knows no bounds: Slush fund scandal stretches beyond Seabrook." *NY Daily News* (2/11/10). Retrieved 7/19/11. http://articles.nydailynews.com/2010-02-11/news/27055954_1_slush-fund-nonprofits-discretionary-funds.

85 Greg B. Smith, Frank Lombardi and Adam Lisberg. "Indicted Councilman Larry Seabrook a no-show; Sources say Arroyo targeted in probe." *NY Daily News* 2/12/10. Retrieved 7/19/11. http://articles.nydailynews.com/2010-02-12/news/27056010_1_nonprofits-slush-fund-state-funds.

86 Greg B. Smith. "New York City Council chicanery knows no bounds: Slush fund scandal stretches beyond Seabrook." *NY Daily News* (2/11/10). Retrieved 7/19/11. http://articles.nydailynews.com/2010-02-11/news/27055954_1_slush-fund-nonprofits-discretionary-funds.

87 "Itemized Conflicts." *NY Daily News*. 4/28/08. Retrieved 8/9/11.

Council Speaker Christine Quinn claimed to have improved transparency in the funding process during her tenure, but investigators remain unconvinced.⁸⁸ Quinn also candidly admitted that the slush fund helped gain her “political leverage,” adding “Is that a good reform thing to have thought? No. . . . But that’s the truth.”⁸⁹

Other New York CFB issues

Pedro Espada, Jr.

In December 2008, the CFB won its case against former City Council member and then Senate Majority Leader Pedro Espada, Jr. regarding improprieties in his 2001 campaign for Bronx borough president. CFB found, among other violations, that Espada had not properly disclosed the use of corporate contributions and had repeatedly failed to provide full disclosure of campaign expenditures. He was summarily denied public matching funds due to the violations, but during the post-election audit, the CFB discovered additional violations, including the campaign’s acceptance of in-kind contributions from entities controlled by Espada, such as Soundview Health Care Network, whose employees had been reimbursed for their contributions to his campaign.

The board found 22 violations of campaign finance laws and assessed \$61,750 in penalties. After months of legal wrangling during which Espada unsuccessfully sued CFB and demanded payment to his campaign of the \$173,000 in matching funds he was originally qualified for, Espada paid the penalties in August 2009.⁹⁰

Miguel Martinez

Former City Councilman Miguel Martinez was granted \$128,786 in public matching funds for his 2001 campaign. During routine audits by CFB, he failed to disclose documentation that justified his use of public funds. The CFB issued a draft audit report finding that the campaign had been unable to document any qualified expenditures and would have to repay all the public funds received. Then, the campaign subsequently produced documents that appeared to have been fabricated, “including apparently altered invoices, discrepancies in signatures, and false endorsements of checks.”

The CFB fined Martinez \$44,780 and demanded he return all \$128,786 in received public funds. Martinez sued, but CFB won the case in December 2008. Martinez later pleaded guilty to federal corruption charges alleging that he converted over \$100,000 in taxpayer funds to personal use through various illegal schemes in which he approved and submitted fabricated documents to the

88 Greg B. Smith, Frank Lombardi and Adam Lisberg. “Indicted Councilman Larry Seabrook a no-show; Sources say Arroyo targeted in probe.” NY Daily News 2/12/10. Retrieved 7/19/11. http://articles.nydailynews.com/2010-02-12/news/27056010_1_nonprofits-slush-fund-state-funds.

89 Tom Topousis. “QUINN: SLUSH FUND HELPED ME.” *New York Post*. 5/12/08. Retrieved 7/19/11. http://www.nypost.com/p/news/regional/item_w1QjLQvCxZHcqoGVqaGEJJ.

90 “New Yorkers Make Their Voices Heard: A Report on the 2009 Elections.” New York City Campaign Finance Board. (2009). pp 73-74. Retrieved 7/19/11. http://www.nycffb.info/PDF/per/2009_PER/2009PostElectionReport.pdf.



City. He was sentenced to five years in prison.⁹¹

Michael Roth

CFB audited Michael Roth, 2005 city council candidate, who received \$20,392 in public funds, and found that he converted \$17,223 for personal use. CFB claimed he made eighty expenditures from campaign funds totaling \$8,035 that were unrelated to his election, such as payments for groceries, gas, car expenses, and MetroCards. After the election, Roth spent an additional \$9,188 on airline tickets to Florida, tickets to tourist attractions in Florida, restaurant bills, MetroCards, and phone bills.

The board assessed \$20,000 in penalties against him in December 2008 for failing to prove that the expenditures were campaign-related and for knowingly making fraudulent expenditures. After the CFB received a judgment against Roth in June 2010, he repaid all the public funds.⁹²

Sheldon Leffler

Veteran City Councilman Sheldon Leffler of District 23 was convicted in New York Supreme Court in November 2003 on charges of “attempting to defraud the CFB of \$38,000 in public funds” during his 2001 bid for Queens borough president. According to Queens real estate executive Rita Stark, she and Leffler schemed to divide a \$10,000 contribution from her into clean elections-compliant \$250 contributions to qualify for the \$4 to \$1 match in public funds. The board noticed “irregularities” in the campaign’s documentation and Leffler was denied public funds and was indicted on 13 counts of criminal conspiracy, attempted grand larceny, forgery, and filing of false documents. He was found guilty on seven counts, was sentenced to five years of probation, ordered to pay a \$5,000 fine, and serve 540 hours of community service.⁹³

The Advance Group

The Advance Group, a political consulting firm which had partnered with John Fratta’s 2001 gubernatorial campaign, was assessed \$3,157 in penalties for “various violations of the Campaign Finance Act, including late disclosure statement filings.” The 2003 ruling was the first time the CFB assigned penalties on a group other than a candidate’s campaign, as it had assumed responsibility for the candidate’s compliance. The ruling was upheld by New York’s Supreme Court.⁹⁴

91 “New Yorkers Make Their Voices Heard: A Report on the 2009 Elections.” New York City Campaign Finance Board. (2009). p 74-75. Retrieved 7/19/11. http://www.nyccfb.info/PDF/per/2009_PER/2009PostElectionReport.pdf.

92 “New Yorkers Make Their Voices Heard: A Report on the 2009 Elections.” New York City Campaign Finance Board.(2009). p 76. Retrieved 7/19/11. http://www.nyccfb.info/PDF/per/2009_PER/2009PostElectionReport.pdf.

93 “2003 City Council Elections: A report by the Campaign Finance Board.” Vol. 1, Sep. 2004. p 8. Retrieved 8/9/11. http://www.nyccfb.info/PDF/per/2003_PER/PER_complete.pdf.

94 *Ibid.*, p. 7-8.

**New York City “Clean Elections” candidates who were investigated for abuse of public funds
2001-2011⁹⁵**

Candidate/Office Holder	Year/Race of Allegation	Allegation	Disbursements (lifetime)
Jimmy Van Bramer (D)	2009 City Council	WFP/DFS collusion	\$217,268
Daniel Dromm (D)	2009 City Council	WFP/DFS collusion	\$107,333
Debi Rose (D)	2009 City Council	WFP/DFS collusion	\$220,966
Brad Lander (D)	2009 City Council	WFP/DFS collusion	\$88,550
S.J. Jung (D)	2009 City Council	WFP/DFS collusion	\$107,333
Jumaane Williams(D)	2009 City Council	WFP/DFS collusion	\$134,740
Julissa Ferreras (D)	2009 City Council	WFP/DFS collusion	\$72,480
Bill de Blasio (D)	2009 Pub. Adv.	WFP/DFS collusion	\$1,900,052
Fernando Ferrer (D)	2005 Mayor	SEIU illegal coordination	\$6,834,225
Annabel Palma (D)	2003 City Council	SEIU illegal coordination	\$115,888
Inez Dickens (D)	2009 City Council	Accepted unnecessary funds	\$103,531
Mathieu Eugene (D)	2009 City Council	Accepted unnecessary funds	\$20,132
John Liu (D)	2009 NY Compt.	Possible violation of expenditure rules; failure to return extra funds	\$1,270,696
Bill Thompson (D)	2009 Mayor	Possible violation of expenditure rules; failure to return extra funds	\$1,641,508
Larry Seabrook (D)	Not election-related	Indicted on multiple counts of corruption	\$361,398

95 New York City Campaign Finance Board Post-Election Reports 1989-2009. Appendices include full campaign finance data. http://www.nycffb.info/press/news/per.htm?sm=press_21a.



Miguel Martinez (D)	2001 City Council campaign & later corruption charges	Paid \$45K in fines for campaign fraud; Indicted and pled guilty for “slush fund” corruption	\$128,786
Kendall Stewart (D)	Not election-related	Former aides pled guilty to stealing \$145K in “slush fund” scandal	\$172,041
Maria del Carmen Arroyo (D)	City Councilwoman	Colluded with relative to steal public funds	\$42,932
Carmen Arroyo (D)	NY Assembly	Colluded with relative to steal public funds	NY Assembly (no public funds)
Erik Dilan (D)	City Councilman	Funneled slush fund money to his wife	\$101,698
Hiram Monserrate (D)	City Councilman	“Slush fund” corruption	\$251,790
Pedro Espada Jr. (D)	2001 Bronx President	22 violations of campaign finance laws	\$0 (participant denied funds)
Michael Roth (R)	2005 City Council	Converted over \$17K in campaign funds for personal use	\$20,392
Sheldon Leffler (D)	2001 Queens President	Attempted to defraud CFB of \$38K through forgeries	\$10,450

Total public funds granted to “clean elections” candidates who were investigated for abuses between 2001 and 2011: \$13,924,189.

Conclusion

Noticeably, there is far less corruption in Maine “Clean Elections” than in the other two states; anecdotally, the occurrence of corruption seems to increase substantially in concert with an increase in the amount of money that is granted to candidates in order to keep them “clean” and competitive. With the sheer volume of problems in the city of New York, from slush fund abuse to union-related corruption and collusion during campaigns, proponents of New York’s system will have a tough argument to make in order to advocate passage of similar systems in other states or municipalities. Politicians are particularly clever people, adept at finding unique advantages through loopholes and exploiting free money granted to them by taxpayers. As long as taxpayers agree to grant them such advantages, many political leaders will continue to work tirelessly to gain advantages through them and game any new election system they are confronted with.



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