

CITY COUNCIL  
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON GOVERNMENTAL OPERATIONS

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April 25, 2014  
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HELD AT: Council Chambers  
250 Broadway - Hearing Room, 14th  
Fl

B E F O R E: BEN KALLOS  
Chairperson

COUNCIL MEMBERS:  
  
David G. Greenfield  
Mark Levine  
Ritchie Torres  
Steven Matteo

A P P E A R A N C E S:

COUNCIL MEMBERS:  
  
David Garodnick  
Brad Lander  
Williams  
Ritchie Torres  
Mark Levine  
David Greenfield

## A P P E A R A N C E S (CONTINUED)

Amy Loprest  
Executive Director  
New York City Campaign Finance Board

Susan Lerner  
Executive Director  
Common Cause - New York

Brent Ferguson  
Brennan Center for Justice

Rosemary Faulkner  
League for Women Voters of New York City

Jessie Laymon  
Executive Director  
Effective New York

Alex Camarda  
Director of Public Policy & Advocacy  
Citizen's Union

Josh Rosenkranz  
Orrick, Herrington & Sutcliffe  
Real Estate Board of New York member

Janos Marton  
Attorney of Moreland Commission

1  
2 CHAIRPERSON KALLOS: [Gavel]. Now call  
3 the Committee on Governmental Operation to order.  
4 Good afternoon and welcome to the hearing of the  
5 Governmental Operations Committee. My name is Ben  
6 Kallos, you can tweet me at BenKallos. We will be  
7 hearing two introductions and one resolution this  
8 afternoon. The first of the bills is Intro #6  
9 sponsored by Council Member Garodnick as well as  
10 myself and dozens and dozens of Council Members.  
11 This legislation would put an end to anonymous  
12 campaign advertisements in New York City political  
13 races. If the campaign puts out an add under this  
14 law, they need to identify themselves directly on the  
15 ad.

16 The second bill we're hearing today is  
17 Intro #148-A sponsored by Council Member Brad Lander.  
18 This legislation concerns election related  
19 advertisements and other expenditures by groups other  
20 than campaigns themselves. Many New Yorkers saw  
21 these advertisements last year from groups with vague  
22 names like Jobs for New York and New Yorkers for  
23 Proven Leadership. And some council races spending  
24 by outside groups exceeded the expenditures of the  
25 candidates themselves and just yesterday a court

1 ruled that New York State's limit on contributions to  
2 groups like Super PACs could no longer be enforced so  
3 this spending is only going to increase. Intro  
4 #148-A would require additional disclosure relating  
5 to the donors behind these groups, to insure that the  
6 public is aware of who is funding the ad supporting  
7 or opposing candidates. It does this both by adding  
8 more detailed disclosures by spenders and their  
9 donors to the campaign finance board and by  
10 increasing disclosures on the advertisements  
11 themselves.  
12

13 Finally, we are hearing Reso #75  
14 sponsored by Council Member Williams. This  
15 resolution calls on the state to enact true campaign  
16 finance reform that is based on our city's model.  
17 The bills supported by this resolution would provide  
18 matching funds for small donations at state level  
19 candidates, increasing the ability of all New Yorkers  
20 to participate fully and reduce the possibility of  
21 corruption stemming from the large donations  
22 permitted under the current state system. Thank you  
23 everyone for attending today's hearing. I look  
24 forward to your testimony. I will go to the first  
25 bill's sponsor, Dan Garodnick, to make a brief

1 statement on Intro. #6 followed by Council Member  
2 Lander and Council Member Williams.

3  
4 COUNCIL MEMBER GARODNICK: Thank you very  
5 much Mr. Chairman, and I will be very brief. First  
6 of all, I want to express my appreciation to you for  
7 hearing Intro. #6 today, as you know New York City  
8 has one of the nation's leading campaign finance  
9 programs but when it comes to political  
10 communications we are now lagging behind. In federal  
11 elections, candidates are required to include a  
12 simple paid for by disclosure on all political  
13 communications, but there is no requirement today  
14 that exists at the city level. Intro 6 will close  
15 that loophole and require disclosure on all political  
16 communication in New York City, something that is  
17 already required for independent expenditures in city  
18 elections.

19 There should be no mystery about the  
20 source of political communications. Let us make sure  
21 that candidates are taking ownership of their claims  
22 and assertions and at the time create a strong  
23 disincentive to resort to hostile or negative  
24 attacks. I look forward to hearing from the Campaign  
25 Finance Board and advocates here today, in continuing

1  
2 the discussion about what we can do to strengthen our  
3 campaign finance system here in New York. Again Mr.  
4 Chairman, thank you very much for the hearing today

5 CHAIRMAN KALLOS: Thank you for joining  
6 us and your leadership on this legislation. Council  
7 Member Lander.

8 COUNCIL MEMBER LANDER: Thank you very  
9 much Mr. Chairman. I also want to say that I very  
10 much appreciate your leadership on good government  
11 issues in general, on campaign finance and disclosure  
12 in particular and for making this topic a priority  
13 for such an early in the term hearing.

14 New York City's strong campaign finance  
15 system is under threat from a flood of corporate cash  
16 through independent expenditures. New York City  
17 through its campaign finance law has dramatically  
18 reduced pay-to-play and other electoral corruption by  
19 combining small donor public matching programs,  
20 voluntary campaign spending limits, contributions  
21 limits and restrictions on donors who are doing  
22 business with New York City. The campaign finance  
23 system that we have levels the playing field so that  
24 voters, not contributors, are deciding who represents  
25 them.

1  
2           Unfortunately, the recent growth in huge  
3 independent expenditure, threatens to upend that  
4 system. As we saw in the most recent cycle, and it  
5 was very good data, that we'll here from the Campaign  
6 Finance Board about it, we saw skyrocketing growth in  
7 independent expenditures. These IEs played a  
8 distressing role at the citywide level and citywide  
9 races, but I believe they were especially pernicious  
10 at the City Council level where in some races  
11 independent expenditures spent far more than the  
12 candidates themselves. One of these IEs in  
13 particular, Jobs for New York, in my opinion, was  
14 especially pernicious, created by the Real Estate  
15 Board, it raised over \$6 million contribution in  
16 large contributions averaging \$50,000 to \$100,000 a  
17 pop. Primarily from real estate LLCs that did not  
18 have to disclose their officers. IN several cases  
19 they mailed more than the candidates. In some cases,  
20 really vicious attack ads against individuals, if you  
21 want to see these ads, you can look at Toxic to  
22 Democracy.tumblr.com, but were able to hide their  
23 identities behind the very simple bland name, Jobs  
24 for New York.

1  
2 As a result, voters who received this  
3 communications really had little or no idea what they  
4 were receiving. But it's not only Jobs for New York;  
5 I believe all independent expenditures would need  
6 more disclosure. In another case, an IE that I  
7 actually backed and supported, created by the United  
8 Federation of Teachers sent out a mailing that didn't  
9 simply make clear that they key funder of that IE was  
10 the United Federation of Teachers, valuable and  
11 important information for voters to have.

12 I'll be honest, I wish we could do far  
13 more to limit, even prohibit the role of independent  
14 expenditures in New York City's elections. I  
15 personally disagree with the Supreme Court's decision  
16 in Citizens United and think our elections are better  
17 when the playing field is leveled. But, with the  
18 legal framework that is in place, there is meaningful  
19 action that we can take that is not only allowed by  
20 the Supreme Court, but in fact, invited by the  
21 Supreme Court. And that is to require more  
22 disclosure from independent expenditures to make sure  
23 that voters can see that information so they know the  
24 ads are coming from and who's behind them.



1  
2 I am very proud therefore to be the lead  
3 sponsor of Intro 148 which requires some simple  
4 things. On communication disclosure, on the mail  
5 piece or the radio or TV ad, to make clear to the  
6 recipients that the mailing or the communication is  
7 an independent expenditure, that it's not backed by a  
8 candidate, who the officers are of the corporation,  
9 who the top five donors are and to refer people to  
10 the CFB website where they can get a good deal more  
11 information, for example one change that would  
12 address the LLC loophole by requiring LLCs to list  
13 their officers on the website so people could see who  
14 was behind the contributors. Umm, while this is a  
15 great reform, we are not the first to propose it.  
16 They are doing a version of this in Connecticut, in  
17 California, in Rhode Island. If we can't prevent  
18 independent expenditures, let's at least make sure  
19 that we bring them out of the shadows.

20 Thank you very much.

21 CHAIRPERSON KALLOS: Thank you Council  
22 Member Lander for your leadership in this issue as  
23 well. Council Member Williams.

24 COUNCIL MEMBER WILLIMS: Thank you Mr.  
25 Chair and thank you for having a hearing on my

1 resolution and my bill. I apologize, I'll be leaving  
2 a shortly after as I have another hearing and  
3 delegation meeting that I have to also attend to.  
4

5 Umm. The Campaign Finance Board is an  
6 independent and non-partisan agency that oversees the  
7 campaign finance system for candidates running for  
8 local office. OF the Campaign Finance Act, the CFA  
9 provides candidates participating in the program, are  
10 given \$6 in public matching funds for every \$1 of  
11 small donations, up to \$175 per contributor, up to a  
12 maximum of \$10.50 in funds per contributor.

13 The intent of the CFA was to reduce  
14 improper influence of local officers by large  
15 campaign contributions and to enhance public  
16 confidence in local government. CFA does not require  
17 that communications to voters paid for or  
18 unauthorized by a campaign or campaign committee  
19 disclose their sources of the communication itself.  
20 However, disclosure is required on an elected related  
21 communication from independent entities as required  
22 by the 2010 Charter Revision Commission.

23 Due to New York State's weak campaign  
24 finance laws, large contributors dominated the state  
25 system with contributions under \$100, accounted only

1 a dismal 3% of all campaign money raised from 2009  
2 until 2012. This resolution merely asks that we  
3 support 2013 Free Elections Act on the state level.  
4

5 I do not believe that umm, money is speech. However,  
6 I'm not the Supreme Court. So, but I would say, even  
7 if is speech there is speech that we agree should be  
8 regulated. We cannot yell fire in a crowded theater.

9 And I believe money is one of those types of  
10 speeches. They wanna call it that, should definitely  
11 be limited and regulated. In particular, when it  
12 comes to democratically electing elected officials, I  
13 would say that if it was not for the New York City  
14 Campaign Finance System, I don't believe that,  
15 someone like myself, may have had an opportunity to  
16 become a council member, and I know that many of the  
17 new crop of council members may feel the same way.

18 The entre I allowed us is unspeakable. I think we  
19 can do a much better job of holding our elected  
20 officials accountable with it and allowing people  
21 access to the system. And so we definitely need it  
22 in the state and I know this is a resolution. I want  
23 to thank my colleagues for actually doing things that  
24 we can do on the city level as intros, but I hope  
25 that our voice can be heard through this resolution

1  
2 and I want to say thank you again. I do want to make  
3 notice to the clerk, that I would be like to be put  
4 onto Intro #148-A. Thank you.

5 CHAIRPERSON KALLOS: I'd like to  
6 recognize Council Members Matteo, Levine and Torres  
7 who have joined us. And I'd like to ask uhh, Amy  
8 Loprest from the New York City Campaign Finance...

9 [Interpose]

10 CHAIRPERSON KALLOS: Sure I will yield to  
11 Council Member Torres, to make a brief opening  
12 remark.

13 COUNCIL MEMBER TORRES: Thank you Mr.  
14 Chairman. I am part of the City Council class that I  
15 guess emerged from the first post-citizens united  
16 cycle. Umm, and I might have been the largest  
17 recipient of IEs in the city. I believe there was a  
18 staggering sum spent in my race. I was running the  
19 Central Bronx. Umm, so, you know, I might lack the  
20 moral authority to comment on the subject, umm, but I  
21 do feel... I have concerns. Is it healthy for a  
22 democracy to have so few people wield so much  
23 influence over the outcome of our elections. And  
24 that is a legitimate cause for concern. And even if  
25 we can do thing legally to prevent independent

1 expenditures at a minimum we can demand greater  
2 transparency around them. Umm, you know, even if you  
3 accept the premise that money equals speech, a  
4 premise that I happen to reject, but even if you  
5 accept it, the right to free speech does not mean the  
6 right to anonymous speech. And I feel that our  
7 system can only benefit from greater transparency and  
8 it seems to me that the Supreme Court is moving in  
9 the direction of eviscerating campaign finance and  
10 transparency may be the only safeguard we have  
11 against the potentially corrupting influence, of  
12 money. So, my my, view are out of sync with the  
13 realities in my own election. I did benefit  
14 enormously. Umm, I know there were a few races where  
15 I think, Denise Miller and Council Member Carlos  
16 Menchaca were able to win despite umm, the  
17 independent expenditures against their race. Umm, so  
18 it could be tempting to conclude that the influence  
19 of money can be easily overcome. I'm inclined to  
20 disagree. I feel like, in a district like mine,  
21 where you have low information, low turnout  
22 electorate, the impact of these expenditures can be  
23 quite decisive. I was just struck by the formidable  
24 power of these independent expenditures to just  
25

1 saturate a complete district with mailings. I think  
2 that a Job for New York could send more mailings in  
3 one day than most campaigns could send in an entire  
4 election cycle. So, I would be careful not to draw  
5 to much comfort from this election cycle and not  
6 under estimate the power that these expenditures  
7 could have, not only in the outcome of an election,  
8 but the outcome of the future for our democracy.

9  
10 And that's the extent of my comment.

11 CHAIRPERSON KALLOS: Thank you. Amy  
12 Loprest.

13 AMY LOPREST: Thank you. Good afternoon  
14 Chair Kallos members of the Governmental Operations  
15 Committee and Deputy Lander. My name is Amy Loprest,  
16 Executive Director of the New York City Campaign  
17 Finance Board. I am joined today by Eric Friedman,  
18 our Assistant Executive Director for Public Affairs.

19 Thank you for the opportunity to testify  
20 on the bills under consideration today. And thank  
21 you all for kind comments about the work that we do.

22 New York City celebrated the 25<sup>th</sup>  
23 anniversary of its landmark matching funds last year.  
24 The comprehensive reforms proposed by Mayor Koch and  
25 enacted by this body, aimed to restore New Yorker's

1 confidence in government which had been damaged by a  
2 series of high profile corruption scandals. Thanks  
3 in no small part to the City Council's ongoing  
4 commitment, today those reforms are thriving.  
5 Candidates for office in New York City can run  
6 successful campaigns without relying on large  
7 contributions and the strings that may be attached to  
8 them.  
9

10 The matching funds program insures that  
11 New Yorkers living in every neighborhood in every  
12 school district, and practically every city block  
13 participate meaningfully in funding campaigns for  
14 office. Their participation helps keep our democracy  
15 healthy.

16 Over the past year, in testimony before  
17 state lawmakers and in public forums around the city  
18 and across the country, we have supported the call  
19 for comprehensive reform of our state's outdated  
20 campaign finance system. We have been pleased to see  
21 that reforms under discussion in Albany have been  
22 modeled on New York City's program. We  
23 enthusiastically lend our voice in support of  
24 Resolution 75 urging lawmakers to enact a statewide  
25 public campaign financing system. The Board also

1 supports passage of Intro 6 to require campaigns to  
2 include a paid for by notice on all communications.  
3 The Board recommended adoption of a similar  
4 requirement covering all campaign communications  
5 following the 2009 election. A comparable mandate  
6 exists in federal law and we should have it here in  
7 New York City.  
8

9 The City Charter now requires independent  
10 expenditures to identify the spender with a paid for  
11 by notice. However, no such requirement exists for  
12 communications paid for by campaigns. During an  
13 election voters may be inundated with conflicting and  
14 confusing information about candidates through a wide  
15 variety of media, on television, in the mail, on the  
16 internet and elsewhere. Providing voters with clear  
17 information about who is responsible for these  
18 campaigns messages will reduce the likelihood of  
19 confusion among voters. These disclaimers provide  
20 crucial information about a political ad to voters at  
21 the very moment it is more useful. When they are  
22 seeing or hearing it for the first time. This  
23 requirement has become especially important in recent  
24 elections as independent expenditures make up a  
25 rapidly growing share of communications to voters.



1  
2 It may become even more important with yesterday's  
3 federal court ruling that eliminated New York State's  
4 contribution limits on independent spenders.

5           During the 2013 elections, 50 groups and  
6 individuals reported \$15.9 million of independent  
7 expenditures. Pursuant to a charter amendment in  
8 2010 and the Board's subsequent rule making,  
9 independent groups disclosed to the public for the  
10 first time an extraordinary level of detail about the  
11 funds they raised and spent. Voters can access all  
12 of the 1,196 unique communications via the CFB's  
13 website. Each communications was required to contain  
14 a paid for by notice showing the group or individual  
15 responsible for the spending. We believe Intro 148-A  
16 will further strengthen our robust disclosure  
17 requirements. Requiring groups to reveal their top  
18 funders within the communication will help voters  
19 better understand who is behind each message.

20           The two independent groups that spent the  
21 most during the 2013 elections illustrate the  
22 potential impact legislation. Jobs for New York  
23 spent more than \$4.9 million on independent  
24 expenditures in 2013. For the average voter looking  
25 at the mailing from the group or hearing one of its

1  
2 ads on the radio for the first time, nothing about  
3 its name would indicate that it was backed by  
4 contributions from the real estate industry.

5           Similarly, a notice as required by Intro  
6 148-A would have better informed voters that funds  
7 from communications by the United for the Future  
8 which spent \$3.8 million were provided by local and  
9 national teachers union. Just as importantly, Intro  
10 148-A will require an even richer level of detail  
11 about the funding to independent spenders. The  
12 legislation will make it more difficult for the  
13 ultimate funders of campaign ads to shield their  
14 identities. We are pleased to be able to collaborate  
15 with the Council on this important legislation, which  
16 would put New York City at the forefront of  
17 regulatory efforts to provide the public with  
18 comprehensive information on outside spending in  
19 elections. To better match the current charter  
20 requirement for disclosure of spenders funding  
21 sources, you may wish to consider increasing the  
22 reporting threshold for transfers to \$5,000 from the  
23 current \$1,000. In order to best realize the intent  
24 of Intro 148-A the council may also wish to consider  
25 whether certain of the disclaimer requirements

1  
2 represent an undue burden on the independent spender,  
3 with particular regard to radio advertising. We also  
4 have some technical corrections to Intro 148-A to  
5 suggest, that we will provide to committee staff.

6           Upon adoption of these bills, the CFB  
7 would consider rules for candidates and independent  
8 spenders requiring that disclaimers be provided in  
9 the language of the communication. As we all know,  
10 New York City has a diverse electorate and campaign  
11 communications are published in a wide variety of  
12 languages. This rule change would insure that  
13 disclaimers work as intended, by providing  
14 information that can be readily understood by voters.

15           As always, we look forward to  
16 communicating with the Council on these and other  
17 issues. I thank you once again for the opportunity  
18 to testify today and I look forward to answering any  
19 questions that you may have.

20           CHAIRPERSON KALLOS: Thank you very much  
21 for your testimony on Introduction 148-A. How much  
22 of an impact... We got to hear a little bit from my  
23 colleague, Council Member Torres, but how much of an  
24 impact did independent expenditures have in the 2013  
25 election cycle overall?

1  
2           AMY LOPREST: Umm, the impact was mixed.  
3 IF you look on our website, we have a chart of the  
4 amount that was spent in every single race, for both  
5 the primary and general elections. And the impact in  
6 electoral outcome was mixed. Umm, I will say this,  
7 that in our initial analysis of the money spent as  
8 independent spending as versus the public financing  
9 that was provided. There was more public financing  
10 provide to candidates that there was in independent  
11 spending in every race.

12           CHAIRPERSON KALLOS: Thank you. Based on  
13 what we're seeing with the Supreme Court ruling, how  
14 do you expect independent expenditure behavior,  
15 continue into the future?

16           AMY LOPREST: I think that, you know, as  
17 we've seen across the country, probably independent  
18 spending will only increase and the lifting of the  
19 contribution limit by the federal court yesterday,  
20 will make the spending even higher. I mean, because  
21 now, there are no limits on the amount that an  
22 independent spender can contribute to one of these  
23 groups.

24

25

1  
2 CHAIRPERSON KALLOS: And how effective  
3 were existing efforts on dealing with independent  
4 expenditures in 2013?

5 AMY LOPREST: In think that the small  
6 donor matching program that the CFB administers, is  
7 an effective combatant. It allowed candidates in  
8 each race to get their message out, umm, even when  
9 they were faced with independent spending. Umm, I  
10 think that that's the most important thing, is that  
11 each candidate is able to communicate to the voters  
12 and get their message out. Also, I mean the small  
13 donor program, gets more individuals involved in the  
14 system. It encourages candidates to seek small  
15 donations, and it gets people from all across the  
16 city involved in the political process.

17 CHAIRPERSON KALLOS: You, in your  
18 testimony, you mentioned that put in the disclosure  
19 requirement on radio advertisements, and part of, as  
20 I read the language, would also extend to robocalls  
21 which were actually a huge point of contention during  
22 the 2013 cycle as well as polling. Which, when  
23 people got off the phones with certain polls, might  
24 feel like now they no longer wanted to support  
25 somebody they had previously been supporting? Can

1  
2 you help me understand why you think it would be an  
3 undue burden for a pollster, or a robocaller, or a  
4 radio ad to disclosure that it's coming from?

5           AMY LOPREST: I mean I think, you know,  
6 if many cases, in all the cases, legislation, the  
7 balancing of burdens and benefits is always difficult  
8 to draw a line. I think for example, the law would  
9 require that there be this paid for notice on 30  
10 second..., this top five donor requirement on 30 second  
11 radio ad and just one of our staff members read the  
12 list of the top five and they said they didn't speed  
13 read it or anything, but it took about 19 seconds.  
14 Again, it's always difficult to find where exactly  
15 the right balance between the benefit which we  
16 clearly understand is important. The burden on  
17 people not being able to actually, do their message  
18 the way they want to. So, it's a difficult place to  
19 draw a line.

20           CHAIRPERSON KALLOS: I feel David Koch  
21 wouldn't mind hearing his name. I would like to turn  
22 it over to Council Member Brad Lander.

23           COUNCIL MEMBER LANDER: Thanks Mr.  
24 Chairman. So, first, thank you. I think the work  
25 you did to disclose and provide information under the

1 current law, was essential in the fact that we work  
2 together to pass that law and that you provided that  
3 information via the web, helped us see so much more  
4 clearly what was going on. SO I really do appreciate  
5 that and one of the goals here is to get people to  
6 see that. Umm, I also really appreciate the  
7 suggestions, well the testimony in general, but the  
8 suggestions for change as we want a good law, we want  
9 it to survive challenge, so I think the \$1,000 to  
10 \$5,000 schedule suggestion is good, the suggestion to  
11 clean things up especially for radio is good, and I  
12 think that what's essential there is this an  
13 independent expenditure, not paid for by a candidate,  
14 donor information is available act. Or some way of  
15 getting people to, so people can quickly know how to  
16 get there and that's not hidden. So I'm confident we  
17 can find a way to do that. You know, the balance is  
18 very important here to get right, because we are  
19 looking... and I just want to make this very clear.  
20 The goal here is to provide disclosure not to  
21 discourage IEs. I wouldn't mind if we had some other  
22 ways of discouraging of IEs but the goal of this  
23 legislation is to encourage disclosure to we can't  
24 take up more than half of the radio ad that clearly  
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would be a discouragement. So we will work together to do it.

Umm, one or two questions, umm, I've heard from, you know, people reaching out to me. One of them is that in some cases, donors, you know, may have sensitivity or fear of reprisal, I'm inclined to think, if you wanna pay for a campaign ad, you gotta be willing to put your name out there. Umm, and that I understand there are unpopular causes and, you know, people have the right to speech, but not to anonymous speech and that sometimes.., that's difficult. But I just wonder if you've thought about this question.

AMY LOPREST: I mean, this comes up and I think that disclosure.. Since we're talking about disclosure and not, any kind of regulation, umm, I think it's less problematic. Umm, we did work with some groups to develop a policy for people to apply for waivers of the disclosure requirement during this election cycle in particular demonstrating that you had fear of reprisal, umm, and I think that, you know, is a way to do that. It's been done in other jurisdiction in that similar way. Umm, on a case by case basis, rather than not having any disclosure,



1  
2 and then I think it's better to work on whether  
3 people can really have a clear demonstrated evidence  
4 of possible reprisal.

5 COUNCIL MEMBER LANDER: So you've done  
6 that in the past?

7 AMY LOPREST: Yes.

8 COUCIL MEMBER LANDER: And it's a  
9 conversation we can follow-up on. And then one issue  
10 that I heard from..., and this may be an issue, umm, I  
11 read the bill, and certainly intend the bill for  
12 entities that might raise money under the campaign  
13 finance law and transfer money to another entity for  
14 independent expenditure, uhh, which you suggest, and  
15 I think thoughtfully, that we raise the threshold  
16 from \$1,000 to \$5,000 solely to be required to  
17 disclose that they made that transfer. So they are  
18 doing their disclosure. Giving information on their  
19 own donors and would now be required to make the  
20 disclosure of the transfer, and then, they're not  
21 responsible for the action, the reporting  
22 requirements and the actions of the independent  
23 expenditure end and which would also... We heard from  
24 some people that thought that we were requiring that  
25 middle or intermediary group, to be responsible for

1  
2 all the reporting of the expenditures. A: I guess I  
3 wanna ask, whether, you know whether you looked at  
4 this, whether you read it one way or another. And  
5 certainly make clear that our goal is not to give  
6 them responsibility for the expenditures.

7           AMY LOPREST: I think some of the  
8 technical language suggestions are what I was  
9 referring to as technical questions to make sure that  
10 that's clear, of who is responsible at what point.

11           COUNCIL MEMBER LANDER: Great. Well we  
12 look forward to that. I want to give credit to David  
13 Seitzer (phonetic) whose the drafting counsel of the  
14 committee who drafted the bill. But getting this  
15 stuff right is important and the language is  
16 complicated and we look forward to working with you  
17 to improve after the hearing.

18           Thank you very much Mr. Chairman.

19           CHAIRPERSON KALLOS: Thank you Council  
20 Member Lander. Council Member Levine.

21           COUNCIL MEMBER LEVINE: Thank you  
22 Chairman Kallos and to all the sponsors of this great  
23 legislation. Like Council Member Torres, my race was  
24 the beneficiary of significant outside spending. I  
25 also had some outside spending against me, but I'm

1  
2 concerned about the spending of candidates being  
3 dwarfed in the future by groups that are  
4 unaccountable to the electorate.

5 I have a few questions about the  
6 implementation and enforcement of this legislation as  
7 you see it, since that would be in your hands. Umm,  
8 what happens when someone doesn't identify themselves  
9 on political communication, is there a forensic  
10 investigation to trace the source of the  
11 communication?

12 AMY LOPREST: Umm. There were some  
13 independent, now since its only required in  
14 independent expenditures, there was some complaints  
15 about that, about anonymous, ahh, ahh, advertisements  
16 and we did do investigation and we were able to find  
17 for most of them, who was responsible and other  
18 investigations are ongoing. Umm, so and during this  
19 cycle for independent expenditures, we had a policy  
20 of doing a one-time non-willful,... if you... Because  
21 the rules were new, we let people, you know, if they  
22 didn't put their paid for notice on, or they didn't  
23 disclose their contributors correctly, whenever they  
24 made an error in that way, we gave them a onetime  
25 pass. So, we were able, there were some anonymous

1  
2 communications but we were able, for most of them,  
3 track down who the original, who the actual source  
4 was, and they did provide their disclosure.

5 COUNCIL MEMBER LEVINE: In such cases that  
6 you deem the errors to be something more than an  
7 omission by someone who is learning about a new  
8 process, what are the penalties and what are your  
9 abilities to, ahh, enforce any judgment you should  
10 render?

11 AMY LOPREST: Well the charter, umm,  
12 allows penalties up to \$10,000 but we have a penalty  
13 scale that's generally about 10% of the amount that  
14 was spent. But there is a whole scale, you know, for  
15 different kinds of violations. The same as we have  
16 penalty scale for candidates.

17 COUNCIL MEMBER LEVINE: And would a  
18 similar investigative process, ahh, and penalty scale  
19 be in place for, umm, enforcement of a law that  
20 required a listing of key donors on a political  
21 communication.

22 AMY LOPREST: I mean, I think that, umm,  
23 that yes, the same penalty kind of scale would apply,  
24 and there is, and that we would do the same kind of  
25 investigation if we saw a communication that

1 neglected to have the top 5 donors on it as required  
2 by the Intro 148-A.

3  
4 COUNCIL MEMBER LEVINE: What's the scale  
5 of your enforcement unit currently and would it need  
6 to be beefed up with expanded rules, related to  
7 outside spending?

8 AMY LOPREST: Umm, well, we have a staff  
9 of audit, who do the audit for the candidates and  
10 then we have a staff of about four people who do the,  
11 that are responsible, in part, in addition, they have  
12 other responsibilities, for doing the enforcement and  
13 regulation of the independent expenditures and we  
14 found that to be completely satisfactory in this  
15 election cycle. I don't anticipate asking for any  
16 additional staff for this new piece of legislation.

17 COUNCIL MEMBER LEVINE: And finally, do  
18 you consider penalties that you say generally are  
19 capped at 10% of the spending to be sufficient to  
20 discourage such bad behavior or perhaps, could it be  
21 seen as the price of doing business this way.

22 AMY LOPREST: I mean, I think that our  
23 experience in the 2013 election, which is the first  
24 time we regulated independent spenders, at all, that  
25 most of the spenders were, wanted to do the

1 disclosure and do it right. I think there were just  
2 some people who had never heard of the rules. Umm,  
3 and did their spending and had to be corrected.  
4 There have..., you know..., we were continuing our audit  
5 process and umm, but I think in the large part,  
6 people did comply with the rules and are willing to  
7 comply. And I don't think that there would be any  
8 difference, this additional paid for top five..., I  
9 don't think that that would change that... the  
10 willingness of the independent spenders to comply  
11 with the law. And I think the penalties have been  
12 right. I mean, I don't think that we've seen any big  
13 scofflaws. So, I mean, I guess, you know it's hard  
14 to predict the future, but I think that our  
15 enforcement has been adequate so far.

17 COUNCIL MEMBER LEVINE: Thank you very  
18 much.

19 CHAIRPERSON KALLOS: Thank you Council  
20 Member Levine. Council Member Torres.

21 COUNCIL MEMBER TORRES: Thank you for  
22 your, umm testimony. Umm, so obviously I support  
23 transparency around independent expenditure as a  
24 matter of policy and principle and when Council  
25 Member Lander asked me to be a second his bill, I

1           said yes. But I do have questions about... It's good  
2 policy, I feel, but I do have questions about the  
3 constitutionality.  
4

5                         Do you believe that the bill would  
6 survive a constitutional challenge? I am not  
7 familiar with the, I'm not completely familiar with  
8 the Supreme Court's Jurisprudence on first amendment  
9 and reporting requirements. So do you believe...  
10 Because that's something to consider, right, we don't  
11 wanna...

12                         AMY LOPREST: In general, one of the  
13 things that the Supreme Court has been very  
14 supportive of is disclosure. So, more disclosure is  
15 generally not a problem, ahh there are other  
16 jurisdictions as Council Member Lander mentioned that  
17 already require the top five listing of donors on  
18 their communications. Ahh, one place where we would  
19 be in the vanguard, and it's hard to know and predict  
20 what would happen, is the kinda, for lack of a better  
21 word, drilling down of the sources of these  
22 transfers. Umm, that would.., we would be in the  
23 forefront that would be a groundbreaking piece of  
24 legislation. There's not, that I'm aware of, any  
25 other jurisdiction that has a similar kind of

1 requirement. Because the Supreme Court has been  
2 generally supportive in they're indicta, about  
3 disclosure, I am optimistic that more disclosure  
4 would not be a problem.

5  
6 COUNCIL MEMBER TORRES: Okay. And  
7 actually that's my only question. I'll ask that same  
8 question, if there's a constitutional scholar around.  
9 I will ask that question.

10 CHAIRPERSON KALLOS: Thank you Council  
11 Member Torres. Council Member Garodnick:

12 COUNCIL MEMBER GARODNICK: Thank you very  
13 much. First of all I want to say thank you for your  
14 support of Intro 6. It seems like most of the  
15 conversations today will probably center around 148-  
16 A, so I will put 6 aside for the moment. Umm and I  
17 will add my voice of concern about just the  
18 extraordinary sums that are being spent in our local  
19 elections, where we take steps for set forth clear  
20 and distinct rules for candidates and strict, strict  
21 limits which suddenly are dwarfed and swallowed up  
22 by, umm messages, which candidates themselves have no  
23 impact, control over, sometimes positive for them,  
24 sometimes negative for them, sometimes negative  
25 against opponents for whom they have no ill will.



1 Umm, it is a... truly a complicating factor for all  
2 local candidates and one which we want to make sure  
3 we get to the right place on locally, to the extent  
4 that we can. I just want to follow-up on Council  
5 Member Torres' question about the constitutionality  
6 of either, although it seems like the requirements of  
7 disclosure in 148-A are obviously more significant  
8 than for Intro 6. Do you think that there is any  
9 limit to what New York City could require as a  
10 regulatory matter for disclosure on an independent  
11 expenditure? Umm, do you think there's a line  
12 somewhere, where it crosses from being constitutional  
13 to unconstitutional because of the size, the amount,  
14 the scope, the scale, etc.? To me, you know, if we  
15 said, 75% of the page must say something, that  
16 probably wouldn't be okay, but maybe requiring the  
17 top five donors is. Where in your view is the line  
18 that we should be considering when we are drafting  
19 legislation like this?

21 AMY LOPREST: Umm, you know, again, I'm  
22 no constitutional scholar, but, umm, having thought  
23 about these a lot, I think you're right. I think  
24 there is, probably a line that the courts would say,  
25 it's too much. I think that the... As I was talking

1 about before, weighing the benefits versus the  
2 burden, is really, I think the place where the  
3 analysis would come down. It's like, if the burden  
4 of the disclosure becomes too great, then you, umm,  
5 it might..., a court may say that the intent was to  
6 limit the actual spending and therefore it's  
7 unconstitutional. And I think it is a difficult  
8 place to draw where the line is. I think that the  
9 top five is not a problem. I think that the  
10 requirements in this law are clear and not overly  
11 burdensome. So, but again I'm not a constitutional  
12 scholar and I'm not the courts, but I do agree that  
13 there probably is a line on which it goes over from  
14 just mere disclosure to burdening peoples' ability to  
15 free speech.

17 COUNCIL MEMBER GARODNICK: I do think  
18 that that's a question for this committee to consider  
19 and also wanted to talk to you about your  
20 recommendation of increasing the reporting threshold  
21 from \$1,000 to \$5,000. The two examples that you  
22 cited in your testimony were the Jobs for New York  
23 and United for the Future. It is my sense, umm, well  
24 certainly I remember seeing the list for Jobs for New  
25 York and the donors to Jobs for New York, the top

1  
2 five. If I remember correctly, were north of  
3 \$200,000, not a \$1,000 or \$5,000, umm, for United for  
4 the Future, I don't know if there was even more than  
5 one contributor... I don't know who the top five were  
6 for that and what their dollar amounts were. Do you  
7 happen to know that, off hand?

8 AMY LOPREST: Umm, there were three or  
9 four donors to United for the Future and they were  
10 all unions there were either, national local or teach  
11 unions.

12 COUNCIL MEMBER GARODNICK: And the  
13 donations were big.

14 AMY LOPREST: They were big

15 COUNCIL MEMBER GARODNICK: Like \$200,000,  
16 \$300,000?

17 AMY LOPREST: Yes, yes.

18 COUNCIL MEMBER GARODNICK: I guess my  
19 question here is, those were the biggies, those were  
20 the ones which, not only, weighed in on local races,  
21 but in some cases, even weighed in on the city wide  
22 races. Umm, should the threshold be different than  
23 \$1,000 or \$5,000 to deal with the problem that we're  
24 most concerned about? Umm, why do you suggest \$5,000  
25 as opposed to \$100,000?

1  
2           AMY LOPREST: The reason we suggested  
3 decided \$5,000 is because in the current city charter  
4 language, ahh, when someone spends more than... or  
5 contributes more than \$5,000 that has to be  
6 disclosed. A contributor, so not the spending  
7 threshold is \$1,000 so if I'm an independent spender  
8 and I spend \$1,000, I have to disclose but only when  
9 someone contributes more than \$5,000.

10           [Interpose]

11           AMY LOPREST: I'm confusing the words  
12 contributing and spending. When someone spends more  
13 than \$5,000 that they have to then disclose their  
14 contributors and so, umm, we just think that those  
15 two things should be mirrored. That, you know, you  
16 have to disclosure these top five, when your actually  
17 having to disclose your contributors at all. SO that  
18 the two things match and that's where the \$5,000  
19 comes from. It's mirroring another provision in the  
20 charter

21           COUNCIL MEMBER GARODNICK: Understood. I  
22 guess what I'm getting at here is the point that  
23 Council Member Lander made about the donor  
24 sensitivity and I'm not sure where the right line is  
25 on this one either. Because, what we don't want to

1 do, is create the chilling effect on people who are  
2 making smallish donations to not-for-profit which may  
3 also have political activity involved and suddenly  
4 find themselves with their own personal name in  
5 everybody's mailbox, but rather to deal with the  
6 bigger expenditures, that have actually, we have  
7 evidence that they have been done, have been used in  
8 city elections both at the local and broader levels.  
9 Um, that's why I raise the question. But I  
10 understand the rationale for the \$5,000 , but I do  
11 think that there is a question for us as to what the  
12 proper number should be. Thank you.

14 CHAIRPERSON KALLOS: Thank you very much  
15 for providing your testimony. Thank you.

16 AMY LOPREST: Thank you.

17 CHAIRPERSON KALLOS: Have a great  
18 weekend. I would like to call up Brent Ferguson from  
19 Brennan Center for Justice and Rosemary Faulkner from  
20 League of Women Voters.

21 [Pause]

22 CHAIRPERSON KALLOS: Upon my council, I  
23 will be asking also Susan Lerner for Common Cause and  
24 Jessie Laymon of Effective New York to join that  
25 panel.

[Pause]

SUSAN LERNER: Hi. I'm Susan Lerner from Common Cause of New York and I'm going to start because we are the organizational sponsors of the bill. And Common Cause across the country has a national policy of encouraging top donor disclosure bills. And so we've been involved in helping to draft, introduce and pass top donor legislation in umm, Hawaii, Maryland, it's actually not donor, it's just disclosure, Rhode Island, Connecticut and we are currently involved in California and in Massachusetts as well as New York City in advocating for top donor disclosures. And, I'd like to start by talking a little bit about the extensive research which we've conducted on the independent expenditure in the most recent city, umm, cycle. And in our testimony, we have a chart which goes actually Council Member Garodnick's... the questions which he just posed.

The first thing that we'd like to point out, umm is that virtually all of the money that was raised and spent for independent expenditure were very large dollar contributions. And that chart that we provide on page three shows that the vast majority of the contributions, came from labor unions and

1  
2 corporation, contributing nearly 88% of all of the  
3 money and over 70% of the independent expenditure  
4 funds.

5 [Interpose]

6 CHAIRPERSON KALLOS: Do we need you  
7 testimony?

8 SUSAN LERNER: It was provided.

9 CHAIRPERSON KALLOS: Please continue  
10 while we track it down.

11 SUSAN LERNER: We gave it to the clerk.

12 CHAIRPERSON KALLOS: We'll track it down.  
13 Please continue.

14 SUSAN LERNER: Okay, sorry.

15 Umm, so 70% of all of the independent  
16 expenditure funds were raised through enormous  
17 contributions of \$100,000 or more. Compare to less  
18 than 2% which were raised through contributions of  
19 \$5,000 or less. So I think that Council Member  
20 Garodnick's point that we need to set a specific  
21 level for independent expenditure disclosures is a  
22 well taken one. Umm, in terms of what the actual  
23 experience has been. The other thing that we've seen  
24 that's very interesting here in New York City, is the  
25 fact that a substantial amount of the independent

1 expenditures were made on behalf of candidates who  
2 were already showing a significant advantage in  
3 polling. Candidates who have leads of over 20% in  
4 the polling, which we thought was a very interesting  
5 factor. What we call currying favor independent  
6 expenditures. Particularly in the mayoral race, from  
7 entities that had backed candidates that didn't win  
8 the primary, and perhaps didn't want to be shut out  
9 from a favorable point of view, and we found that 24  
10 out of 47 independent spenders representing over 85%  
11 of spending, used committee names that were  
12 misleading or unclear to the average voter.

14 Umm, and the two committees that have  
15 been referenced, I think Jobs for New York and also  
16 New York Progress are an indication of this  
17 particular problem. We find this to be particularly  
18 troubling in terms of the confusion on the part of  
19 the public and the phenomenon of the incredible  
20 spread, of what we called dark money. But, our  
21 concern is underlined by recent, umm research,  
22 academic research on the impact of attack ad  
23 sponsorship by unknown independent groups. Political  
24 science research that was performed by two professors  
25 at Dartmouth University and released in 2012, suggest



1  
2 strongly that negative advertising that comes from  
3 these nicely named groups is more effective and more  
4 damaging and impresses the voter more than negative  
5 advertising which come from candidates. This to us,  
6 suggests the importance of the kind of disclosures  
7 that we're talking about in Intro 148 and umm,  
8 therefore, I think, that the details of the bill are  
9 particularly important. But we have models that we  
10 can work with and particularly I would like to  
11 suggest our experience of more than a decade in  
12 California, where the original impetus for the bill  
13 comes from.

14 In California, since the early part of  
15 the century if not a little bit earlier, umm, there  
16 is a requirement that the top two funders for  
17 independent expenditures and for independent, and...  
18 sorry, for ads supporting or opposing initiatives  
19 must be disclosed on the ads. So, we have experience  
20 that we know that it is workable, we also know that  
21 it has not been challenged and the initial  
22 Proposition 208 which set up the issue to begin with,  
23 in the statute. This part of it survived challenge.  
24 So, we believe that a top donor disclosure  
25 requirement is one which was justified in the pre-

1  
2 Citizen's United, status of the law but subsequent to  
3 Citizen's United, and particularly with the language  
4 in McCutcheon which talks specifically about the fact  
5 that you need less regulation in terms of the amount  
6 of spending, or contribution because of the  
7 availability of real time disclosures on the  
8 internet, in particular, that therefore, it's  
9 acceptable to strike down, what we believe are  
10 appropriate regulations trying to control the warping  
11 impact of large amounts of money. So, to us, the  
12 current status of the law indicates that these sorts  
13 of disclosures are well justified and if they were to  
14 be challenged, would certainly survive challenge,  
15 particularly, in light of the recent law.

16           So, we suggest that California provides a  
17 good model. It's interesting that in California,  
18 right now, there is a very broad movement to expand  
19 their disclosure requirements, to go from a top two  
20 to a top five for both the initiative requirement and  
21 for independent expenditures.

22           And, I would like to point out something  
23 also interesting that's done in California.  
24 California has a process whereby the Secretary of  
25 State makes a determination that the ultimate funder

1 is, in the situation of what we call, the Russian  
2 Doll situation, where you have a series of  
3 interlocking entities. Here, it would be LLCs which  
4 aggregate under the control of one real estate entity  
5 and have a parent that would be recognizable to the  
6 public. I think that it is definitely possible to  
7 set up a procedure whereby a determination is made,  
8 who is the ultimate funder in this situation that  
9 we're facing? So I'd like to also point out that  
10 what we have done and we released this previously, is  
11 we took examples of the independent expenditures that  
12 were disseminated, communications paid for with  
13 independent expenditures in the 2013 election cycle,  
14 here in the city and we added, and on the web you can  
15 actually see this is a little animation, where you  
16 see the mailer and then we pop in the disclosure that  
17 we would recommend. Umm, clearly we believe that the  
18 principle and the impetus behind 148 is absolutely  
19 the correct way in which we should be headed as a  
20 city, and as strong proponents of not only, campaign  
21 finance, but also a full disclosure and provision of  
22 extensive information to the voters. But I'd like to  
23 echo what the campaign finance board said, which are  
24 we needed to get the balance right. An in a  
25

1  
2 situation where we're placing disclosure on  
3 advertisement, I would suggest maximal is not always  
4 meaningful. Because what we need to insure is that  
5 the information that's available on the ad, is the  
6 information that's going to provide the most  
7 information in the smallest, quickest way to the  
8 voter. And the entire impetus behind suggesting top  
9 five is to have that meaningful information available  
10 to the voter at the time at which they receive the  
11 communication.

12           So, we would suggest that we need to  
13 provide a limited amount of information with limited  
14 verbiage on the advertising itself. That we have  
15 models in other states that help us carve down as we  
16 get to thirty second and fifteen second radio or TV  
17 ads or where we're looking at robocalls that can  
18 provide us with some good guidance and some models,  
19 but that we have to be, I think, very sensitive to  
20 providing clear information on the communication.  
21 And in that regard, I would suggest that while we are  
22 very strong proponents of the Campaign Finance Board  
23 and big admirers of their website. That sending the  
24 voter to the Campaign Finance Board home page is  
25 probably not the way which we would want to go. We

1 believe that there should be a specific page, and  
2 whether it's on the campaign finance board website or  
3 maintained by the independent expenditure committee  
4 itself, is somewhat irrelevant to us, although we  
5 tend to favor maintenance by the committee because it  
6 can be updated very easily. We believe there should  
7 be a specific page that provides the top five  
8 disclosure that you reference in the ad or TV call,...  
9 ahh the telephone call, which takes the voter  
10 directly to the information that they want. The  
11 ideal to me is that the voter is getting the  
12 communication. They can pull out a smart phone, or  
13 be at their computer and look it up and see who is  
14 talking to them. Because the most important  
15 information for the voter is to be able to assess the  
16 credibility of the speaker when they receive the  
17 communication and to the extent that we're asking  
18 them to go to some website and troll through it and  
19 find the information at some future date, I think  
20 we're interfering with the underlying impetus of the  
21 statute.  
22

23 And I really want to commend Council  
24 Member Lander for taking this on. I think it is the  
25 most significant thing that we can do in addressing

1  
2 independent expenditures, and I am really looking  
3 forward to working with the Council Member with the  
4 Committee and with other proponents of disclosure to  
5 get the balance right.

6 I would like to say that we also are  
7 strong supporters of Initiative 6 and we think it  
8 doesn't need any revision and of course we support  
9 Resolution 75.

10 CHAIRPERSON KALLOS: Thank you very much.  
11 I must apologize if Citizen's Union, Alex Camartica  
12 [sic] didn't join the large panel of good government  
13 advocates, that would be great. And, uhh

14 BRENT FERGUSON: Okay, I'll go ahead.  
15 My name is Brent Ferguson, I'm counsel at The  
16 Brennan Center for Justice. I'd like to thank all  
17 the committee members for the opportunity to testify  
18 today and I'd like to start off that we  
19 strongly support the council's efforts with regard to  
20 all three of these proposals, all very important  
21 issues.

22 First on Resolution 75, briefly, as you  
23 know, the Brennan Center and several of the groups  
24 here today worked very hard to get public financing  
25 passed in the state over the last couple of years and

1  
2 it's very important to adapt the city's programs  
3 statewide, mainly to show states across the country  
4 that this a model that has worked and its message  
5 that would come from city council's themselves who  
6 have used the program. We think that's a very  
7 important signal to send. And also important to say  
8 is that we can still get a bill passed in this  
9 legislative session in 2014. There was a  
10 disappointing budget compromise, but the  
11 extraordinary push by government groups and New  
12 Yorkers after that has really put pressure on the  
13 Governor and legislative leaders to act. So the  
14 resolution is the best thing that council can do in  
15 that regard.

16 Umm, with regard to the disclosure bills,  
17 I'd like to say first that we endorse passage of  
18 Introduction 6. I think it would clearly update New  
19 York City law for candidate advertisements. It would  
20 bring the law in line with current federal  
21 requirements and requirements of many states as well.

22 Umm, Introduction 148-A is what I'll  
23 spend more time speaking about today. We agree that  
24 trying to increase the disclosure of independent  
25 expenditures is a really important of New York City's

1  
2 effort on this subject. My written testimony today  
3 makes a few suggestions for strengthening the law,  
4 things that the council could consider.

5           First on Section 1 of 148-A, we believe  
6 that new wording of this bill tries to disclosure the  
7 identity of entities that make contributions to  
8 independent spenders and that's obviously a very  
9 important step towards transparency. Susan mentioned  
10 the Russian Doll problem a little bit and this is  
11 trying to get at that. We definitely agree. We  
12 think one way that we may be able to strengthen this  
13 is for the council to consider a separate provision  
14 that requires that for any entity that is disclosed  
15 it's a contributor to independent spenders it makes  
16 very clear that a natural person must be listed in  
17 that disclosure. Umm, I think it's arguable that the  
18 bill may do this, but I think a separate sentence or  
19 provision would take an ambiguity out of that. And  
20 that of course, would prevent a disclosure report  
21 that has several different corporate entities that  
22 are unknown and faceless, basically. Umm, another  
23 suggestion to that section is to add a provision in  
24 which affiliated organizations could not make  
25 contributions to independent spenders just below the



1           \$1,000 threshold to avoid disclosure. So, you could  
2           have an organization that breaks up into various  
3           entities, basically, like the LLC loophole in the  
4           state and tries to avoid disclosure by umm,  
5           contributing less than \$1,000.  
6

7                       I believe there is already a CFB rule  
8           with regard to contributors in the city and this  
9           would be a similar provision for that.

10                      So the second part of the bill, is the  
11           top five contributor's portion and Susan discussed  
12           that this has already been implemented in several  
13           states. We think it's a very good step. Umm, just a  
14           couple little things to think about there; one is  
15           that a small alteration could create an exception for  
16           very small advertisements or other advertisements  
17           where it's impractical to include such a disclaimer.  
18           And that wouldn't cover TV ads or mailers or anything  
19           that's going to be bulk of spending. It would cover  
20           umm, pencils and bumper stickers and things like  
21           that, that would... It's not realistic to include this  
22           type of thing. That's a fairly minor change.

23                      Umm, and then finally, the council could  
24           at least consider creating a segregated fund option  
25           for these entities and what this would do is, it

1 would allow an independent spender to create a  
2 segregated political spending fund and only the top  
3 five disclosure, would only require disclosure of  
4 those who have given to that segregated fund. And  
5 that does two things, it allows contributors who  
6 don't want their money to go to political  
7 advertisements to separate that and say, you know, I  
8 don't want my money to go this spending. And then  
9 second, for the people who see the top five  
10 disclaimer, it shows them whose actually given the  
11 money that goes straight toward that ad.

12 That concludes my testimony. So thanks  
13 again. We stand behind the council's efforts and we  
14 appreciate the opportunity. Thank you.

15 CHAIRPERSON KALLOS: Thank you. I want  
16 to acknowledge that Council Member David Greenfield  
17 has joined us and the next speaker.

18 [Pause]

19 CHAIRPERSON KALLOS: Turn on your  
20 microphone.

21 Thank you for the opportunity to be here  
22 to testify. My name is Rosemary Faulkner. I'm a  
23 resident of New York City and I speak as a member of  
24 the League of Women Voters of New York City and as a  
25

1 citizen who is concerned about the corrosive effect  
2 of big money our elections. I and my colleagues from  
3 the League are here to comment on the three proposals  
4 that in different ways attempt to respond to the  
5 negative effects of political campaign expenditures.  
6 First, I'd like to comment on Intro 148-A. This  
7 measure properly provides for the identification of  
8 the top five funders on any mailers, flyers, signs,  
9 and TV, radio and internet advertisements. Specific  
10 requirements in the proposal detail how the  
11 identification information is to be communicated.  
12 And I think others here have already pointed out some  
13 of the small specific tweaks that might be considered  
14 to those requirements.  
15

16           The League of Women Voters of New York  
17 City strongly supports the objectives of this bill  
18 and urges the committee to complete its work and  
19 report out a law that will effectively disclose the  
20 identity of those individuals funding independent  
21 expenditures in the New York City elections. Our  
22 democracy is in peril with the flood of money into  
23 elections from special interests and the very  
24 wealthy. New York City has wisely instituted public  
25 financing of elections through a small donor matching

1 system that has improved the quality of our elections  
2 in many ways. However, recently independent  
3 expenditures by corporations and individuals have  
4 become a significant influence in New York City  
5 elections as evidenced by the fall 2013 campaign. In  
6 that campaign 40 or more independent expenditure  
7 committees spent at least \$15 million. Further  
8 information is provided in the Common Cause Analysis.  
9 Such expenditures can have a corrosive effect on  
10 those benefiting from the expenditures, influencing  
11 the way they regard legislation and other government  
12 actions that affect the special interest making the  
13 expenditure. This may occur whether or not the  
14 expenditure was significant in getting the candidate  
15 elected. Since restricting these expenditures  
16 through legislation is no currently an option,  
17 another way to significantly limit the impact of such  
18 expenditures disclosure of the identity of the groups  
19 and individuals funding the expenditures, currently,  
20 there is no disclosure of the funders of the ads  
21 themselves. If voters are able to identify those  
22 interest behind the information they receive and  
23 understand their actual goals, they can then evaluate  
24 the information more accurately.  
25

1  
2 Overall, disclosure helps to make  
3 accessible, the information a voter needs so that he  
4 or she can be more truly informed. Further, it is  
5 important that the actual funders be identified in  
6 the ad, that's the Russian Doll phenomenon. I guess?  
7 We need to be able to get back to the actual funder  
8 and that's already been mentioned.

9 The League of Women Voters strongly  
10 supports the objective of this bill and in summary we  
11 urge the committee to report an effective bill to the  
12 full council as soon as possible.

13 Regarding Intro 6 we also heartedly  
14 support the proposed amendments in Intro 6. We  
15 believe the addition requirements will bring  
16 important identifying information to light while  
17 preserving the rights of campaigns and other to  
18 communicate freely with constituents so that all  
19 points of view can be aired. Intro 6 adds two new  
20 requirements, the requirements would apply to all  
21 candidates for office in New York City and their  
22 campaigns whether or not they choose to accept public  
23 campaign financing. The first additional requirement  
24 is that when a campaign or candidate pays for  
25 literature, advertising or other communication, it

1 will be required to disclose that it has paid for  
2 that communication. The second requirement is that  
3 if a campaign or candidate authorizes another person  
4 or entity to pay for such communication, the  
5 authorization by such campaign or candidate must be  
6 disclosed.  
7

8           The League of Women Voters recognizes  
9 money can be a corrupting influence in politics and  
10 how campaign funds are raised and spent is fraught  
11 with potential problems. At the same time,  
12 expenditures by campaigns and others who support  
13 those campaigns are a free speech right and a  
14 necessary and healthy part of our political process.  
15 Balancing these interests requires that campaign  
16 expenditures be subject to reasonable regulations.  
17 Requiring disclosure as to who is authorizing and  
18 financing a particular communication, is not only a  
19 reasonable but an essential part of that balance.  
20 Disclosure requirements insure that other stake  
21 holders, including government regulators, good  
22 government groups and media have access to the  
23 information they need to combat inaccurate  
24 information, bias and corruption. Disclosure of the  
25 source of an authorized political communication can

1  
2 serve to illuminate the motivation behind the  
3 communication and reduce a potential source of  
4 campaign deception or corruption. Even when no  
5 actual deception or corruption exists, transparency  
6 combats the appearance of corruption and promotes  
7 confidence in the political process leading to  
8 greater voter participation in campaigns.

9           The League of Women Voters sees great  
10 value in such participation. For these reasons we  
11 support Intro 6 and the proposed amendments to  
12 Section 3703.

13           Regarding Resolution 75, the league also  
14 supports this resolution and urges the committee to  
15 approve it and to refer it for speedy enactment.

16           The League has long been a strong  
17 supporter of New York City's optional small donor  
18 matching funds public financing system. The city's  
19 system supervised aggressively by the New York City  
20 Campaign Finance Board has encouraged substantial new  
21 participation in city elections by permitting  
22 individuals without great wealth or access to wealthy  
23 friends or political donors, nevertheless, to seek  
24 nomination and election and win elections.

1                   The Moreland Commission Report that we  
2  
3 all know of that came out last December, said "The  
4 Commission believes that public financing of  
5 campaigns in the form of small donor matching funds  
6 frees election officials from reliance on massive  
7 donations from wealthy and powerful interests and  
8 invigorates citizens democratic participation  
9 increasing public accountability and renewing the  
10 public trust.

11                   Resolution 75 pending before this  
12 committee urges support for the Fair Elections Act  
13 currently pending in the state assembly and senate.  
14 This act would establish a New York State optional  
15 partial public financing system for statewide office,  
16 state legislative office, and constitutional  
17 convention delegates. Similar to that in New York  
18 City. The proposed matching fund system would  
19 provide participating candidates \$6 in state funds  
20 for every \$1 of eligible contributions. Up to a  
21 maximum of \$250.00 and would permit contributions of  
22 no more than \$2,000 from any one contributor. The  
23 State Assembly and Senate and especially Governor  
24 Cuomo missed a great opportunity as they were  
25 finalizing the State's 2014-15 budget, to enact



1 comprehensive campaign finance and ethics reform.  
2 Nevertheless, they still have the opportunity to  
3 enact reform particularly to establish a  
4 comprehensive program of public financing with small  
5 donor matching funds before the legislature adjourns  
6 in June. For that reason, the League of Women Voters  
7 of New York City supports Resolution 75 and urges the  
8 committee to approve it and refer it for speedy  
9 enactment. The council's approval coming from  
10 elected officials who have successfully navigated  
11 through and benefited from a substantially similar  
12 public financing system will be a powerful signal to  
13 the legislative leaders in Albany to enact reform  
14 this year.

15  
16 Thank you for the opportunity to present  
17 this testimony on behalf of the New York City League  
18 of Women Voters.

19 CHAIRPERSON KALLOS: Thank you very  
20 much.

21 JESSIE LAYMON: Thank you chairman and  
22 council members for having me here today. I'm Jessie  
23 Laymon from Effective New York and I'd like to first  
24 thank you for what I think is the first testimony by  
25 Effective New York in front of the New York City

1 Council. Effective New York is a relatively new  
2 progressive good government organization and we are  
3 happy to join our colleagues in the good government  
4 community in support of all three of the measures  
5 before you today.  
6

7 In the interest of time I will try to  
8 focus my comments on particularly, one of the less  
9 discussed measures so far, Resolution 75. But,  
10 briefly though, I'd like to say that Effective New  
11 York supports the efforts of Council Members  
12 Garodnick and Lander on Intro 6 and 148 which taken  
13 together do vital work to perfect New York City's  
14 already very strong system of campaign finance  
15 regulation. We also share the relatively modest  
16 concerns and ideas for improvement that have been  
17 voiced about particularly 148-A by the bill sponsor  
18 himself, Mr. Lander as well as just a few moments ago  
19 and particularly some of the ideas from Susan Lerner  
20 of Common Cause.

21 But I'd like to focus on the broader  
22 point that is made, I think by, these three measures  
23 taken together today. We have two pieces of  
24 legislation which make these improvements to New York  
25 City's campaign finance system and then a resolution

1 which in effect calls to New York State to try and  
2 catch up with where New York City has been for 20  
3 years. That is very telling. It is an unfortunate  
4 tendency of those of us that are concerned citizens  
5 and work in the reform movement to always cry that  
6 where we are is the worst. That surely our politics  
7 is the dirtiest. Surely, our campaign finance system  
8 is the most corrupting. But, that is not quite  
9 always the case. And, I want to state quite clearly,  
10 today that in fact, New York City's system of  
11 campaign finance is quite possibly the best, the most  
12 empowering to citizens, the least corrupting with  
13 money of any system of campaign finance in the United  
14 States. It is unfortunate then that New York State's  
15 system of campaign finance is one of the absolute  
16 worst in the United States. Umm, surpassed perhaps  
17 only by Texas and a couple others. Umm, in its scope  
18 of campaign finance ugliness and the sheer amount of  
19 money that comes from a very small circle of donors.  
20 A couple points to back this up and I'll rely  
21 somewhat on a study done by Demos. First, just in  
22 support of New York City's system, let us remember  
23 the election that we have just gone through in 2013  
24 and some of the particular campaign finance related

1 highlights of that which are bipartisan. Joe Lhota  
2 won the Republican primary for mayor using public  
3 funds beating a candidate that was able to self-fund  
4 his campaign with millions of dollars and at the same  
5 time that was happening, Scott Stringer won the  
6 Democratic primary for Comptroller again defeating a  
7 candidate that was able to self-finance his campaign  
8 with millions of dollars. And, at the same time both  
9 of those things were happening, in the Democratic  
10 primary for Mayor, the public funding system enabled  
11 the field of candidates to have a robust and vigorous  
12 debate which the people of New York were really able  
13 to observe and participate in and which gave us a  
14 competitive election that produced our new Mayor.  
15 That is the way democracy ought to work.

17 We have a rather clear example, almost a  
18 sort of control experiment, of how campaign finance  
19 laws themselves, really do change the politics. Just  
20 across the border in Connecticut. Connecticut, up  
21 until roughly a decade ago, had a wild west system of  
22 campaign finance, somewhat like Albany's New York  
23 State. And then they reformed on a model built very  
24 much like New York City's, using small donations to  
25 leverage public money.

1                   The legislators themselves acknowledge  
2  
3 the change this brought about in the way that they  
4 legislated even after election. A quote from one  
5 Connecticut legislator "I announced my re-election  
6 bid in February and by April I was done with fund  
7 raising so from April to November I could focus only  
8 on talking to constituents Without public financing,  
9 I would have been fundraising throughout that entire  
10 period". A Republic legislator stated "Now people  
11 concentrate more on the issues, they read the issues,  
12 and you can see more votes that are bipartisan and  
13 big issues get bipartisan votes".

14                   Demos was able to conclude at the end of  
15 their study that Connecticut's experience shows that  
16 public financing in particular is a fundamental part  
17 of a stronger democracy that is more responsive to  
18 its constituents rather than to big donor and special  
19 interests. Thus, it is certainly appropriate, for  
20 Resolution 75 to pass, calling on the state to enact  
21 a system of fair elections modeled on New York  
22 City's.

23                   I want to urge the council to move  
24 swiftly on this for two reasons; first, as already  
25 been brought up by my colleague from the Brennan

1  
2 Center there is a legislative session going on in  
3 Albany now. It goes until June and this is the  
4 remaining window of opportunity for reform to happen  
5 in Albany this year.

6 The next New York City election is not  
7 for three and a half years and the changes that we  
8 make through Intro 6 and 148 will be particularly  
9 relevant in 2017. By that time, there will have been  
10 two more cycles of dirty corrupt state elections that  
11 we need to fix. So this is not something that is  
12 entirely within the power of the City Council to  
13 change, but certainly you can pass your Resolution  
14 and call on Albany to do the right thing.

15 And, this is more important now than ever  
16 after the premature shutdown of the Moreland  
17 Commission on Public Corruption. The Moreland  
18 Commission really presented an opportunity for the  
19 people of New York to see just how flawed our state  
20 campaign finance system was and is, and in just  
21 several months of work they began to really do good  
22 work showing that, and then they were shut down as a  
23 result of what was called, a reform compromise, but  
24 produced really no reform whatsoever in the state  
25 budget. That was unfortunate. It does not seem that

1  
2 the Moreland Commission will be re-set up anytime  
3 soon and so perhaps the city council can do a little  
4 bit of moral work here in passing this resolution.

5 I believe that is the crux of what we  
6 have here to say, so I will defer to my colleagues  
7 from Citizen's Union.

8 Once again thank you for allowing us to  
9 join in the fun from Effective New York.

10 CHAIRPERSON KALLOS: I want to  
11 acknowledge Council Member Levin who has joined us  
12 and thank Citizen's Union for their patience.

13 ALEX CAMARDA: Thank you. My name is  
14 Alex Camarda, I'm the Director of Public Policy &  
15 Advocacy at Citizen's Union. The topic of today is  
16 really in a word, disclosure. So, I'll start with a  
17 bit of that.

18 Umm, Citizen's Union as many of you know,  
19 issues a voter guide every year. We've been doing  
20 that for over 100 years. It contains our  
21 endorsements for city elections and even numbered  
22 years for state elections. We recently, because of  
23 the change in campaign finance landscape, asked the  
24 State Board of Elections if we were indeed an  
25 independent political committee. Umm, they gave us

1  
2 an advisory opinion this past summer indicating,  
3 that, in fact we were so effective this year we  
4 registered as an independent political committee. We  
5 will be therefore disclosing our donors that have  
6 made contributions for our political activity going  
7 forward for evaluation of candidates that we do and  
8 that advisory opinion has a much broader implication  
9 for other groups that also endorse candidates.

10 We also on our voter guide itself, list  
11 all of our board members which are all the donors to  
12 our political activity. So we already umm, disclose  
13 on our publications, so to speak, on our print  
14 communication, our donors.

15 With regard to disclosure in general, our  
16 overarching philosophy is that we support robust  
17 disclosure, we supported the 2010 Charter Amendment  
18 that resulted in contributions and spending by  
19 independent entities to be disclosed. We support  
20 disclaimers in the form of paid for by disclaimers  
21 that, umm most of you are familiar with in campaign  
22 ads, that reveal the source behind the ad. Umm, and  
23 we think that campaign donor information generally  
24 should be available in an easily accessible way,  
25 informative to the public and allows for analysis by



1  
2 the press, advocacy organizations and the general  
3 public.

4 We therefore support Intro 6, Council  
5 Member Garodnick's bill. We don't believe that  
6 candidates, particularly those receiving public funds  
7 should be able to make anonymous communication as was  
8 done not only in council races but races for public  
9 advocate and comptroller in 2013. We think that  
10 practice should end.

11 As far as Intro 148, we've only started  
12 to look at this in the last two weeks or so, umm, so  
13 we don't yet have a position on that bill. I'm  
14 really going to go through today some of the issues  
15 that were raised and the discussions that we had  
16 internally, both in favor of the legislation and then  
17 concerns and questions that we had about it. I think  
18 the critical question for us in relation to Intro 148  
19 was really how can we assure that donors are  
20 accessible to the public and those who view the ads,  
21 while at the same time not creating too much of a  
22 burden on free speech and also making sure that the  
23 information has utility and is useful.

24 I did go through, and you can see this  
25 beginning on page three in our testimony for the top

1 five independent spenders in 2013, what I would  
2 believe would be their top five donors if listed on  
3 an ad and also their top executives which is required  
4 in print ads by the bill. And, I think what it shows  
5 for us is that... a couple of things; one, I think just  
6 revealing the names itself even if the names are not  
7 widely known to the general public, may be positive  
8 in that it would probably result in a reduction in  
9 negative advertising. I would imagine that some  
10 donors would not want to have their names attached to  
11 a controversial negative mailer. And I think the  
12 names themselves may be recognized by some voters and  
13 this is something that we debated internally. As you  
14 see there, what was surprising to us, is that there  
15 are only two individuals listed of the 24 top donors  
16 for the top five independent spending entities. Most  
17 are actually other pacs and LLCs and so the question  
18 was raised as to whether this information is truly  
19 useful to the typical voter and we use this phrase  
20 typical voter and I'm not sure we've actually spelled  
21 out what that really means. But I think at least for  
22 some voters, you know, hearing these disclosures, one  
23 after the other, at the end of an ad, I'm not sure  
24 how much that would actually reveal about the entity  
25

1 of which has been acknowledge, many have general,  
2 vague names. At the same time I think there are some  
3 people who for example for Jobs for Growth, if they  
4 heard a bunch of LLCs listed, maybe they would draw a  
5 conclusion that, that's real estate, that's property  
6 entities and that would be helpful. I think others  
7 would say, what is Jamestown LLP, what is AGS  
8 Ventures II, LLC. This doesn't really help me  
9 understand who is behind the ad.  
10

11 So what we would recommend or suggest is  
12 that perhaps a disclaimer could be put on the ad that  
13 provides a URL address that goes specifically for  
14 that political committee directly to a page that  
15 provides not only their top five donor information  
16 but other donor information and also profile  
17 information about the political committee, the name,  
18 the address, the officers, their positions, etc. And  
19 much of this already, I should add, on the campaign  
20 finance board's website. They do an excellent job of  
21 disclosing this information. If you go to their home  
22 page, there is a button right on the home page that  
23 says Independent Expenditure Information and it has  
24 it for each election, primary, general and specials.  
25 And if you click on it, it goes to a report that has

1 a bar graph for each race. It shows the candidate,  
2 the independent spender, the amount of money they  
3 spent relative to each other. Within that, you can  
4 click on an independent spender and it takes you to  
5 every one of their contributors. If you look at  
6 their expenditures, it shows every particular ad. I  
7 did this last night for RABNY [sic], I went through  
8 20 pages and looked at every one of their ads and the  
9 date it was sent during the election.

11 So the disclosure is very good, on the  
12 Campaign Finance Board's website, but we certainly  
13 understand the point that's been made here today,  
14 that many people who watch these ads, there's going  
15 to be a tremendous drop-off between those who watch  
16 the ads and those who actually go to the website.  
17 And I think the challenge is to close that gap while  
18 at the same time not infringing on speech.

19 I mean one of our concerns, and we do  
20 have constitutional scholars on our board who looked  
21 at this issue, umm, this is a relatively new law  
22 that's been passed in a couple of states. TO my  
23 knowledge it has not been weighed in on by the courts  
24 other than they've weighed certainly, in on  
25 disclosure generally, but specifically on disclaimers

1 with top donors listed, to my knowledge. And we have  
2 been told by independent spenders, by political  
3 consultants that we conferred with, that the portion  
4 of the ad, particularly radio ads, could be a quarter  
5 to a third of the ad. And there's obviously a cost  
6 attached to that and that could be viewed by court as  
7 being infringement on speech. And I think the more  
8 substantial that amount is of the ad, the more  
9 concerning that is from a legal perspective.

11 Beyond that, I just wanted to raise a few  
12 issues about other portions of the bill.  
13 Particularly, the attempt to kind of peel back layers  
14 of the onion, some referred to it as the Russian Doll  
15 issue, trying to uncover, who the actual donors are.  
16 We support in concept the first portion of the bill  
17 that would provide in the CFB's database the root  
18 donors to an independent expenditure entity. We have  
19 suggestions for language that we think will get at  
20 that without requiring the donor itself to register  
21 which we don't support, but will get at the original  
22 donors. And I can say that we've done quite a bit of  
23 work in this area. This issue came up as part of  
24 lobbying disclosure at the state level as many of you  
25 know under Governor Cuomo, two year ago the ethics

1 bill that was passed required disclosure of donors  
2 for certain lobbyists who reach certain thresholds.  
3 One of those lobbyists which also ran issue based ads  
4 during campaigns was known as Common Sense  
5 Principles. And, it ran issue based ads in swing  
6 state senate races and when it disclosed its donor to  
7 JCope, which is the state's ethics entity, the one  
8 donor it disclosed was the Center for Common Sense,  
9 LLC. So we never did learn its original donors,  
10 because it was able to veil its donors behind an LLC.  
11 I can tell you that for example, if something like  
12 that was disclosed in an ad, that wouldn't really  
13 reveal much, and much of this work unfortunately, is  
14 imperfect for an ad in the sense that it really  
15 requires digging by journalists, advocacy groups,  
16 umm, and others. And, we know that because we've  
17 done it. And we've looked into who actually funded  
18 the Center for Common Sense LLC and Common Sense  
19 Principles and some of that information we provided  
20 to the Moreland Commission and I can tell you it's  
21 not something that is necessarily conducive to  
22 putting into an ad. It takes a lot of work and there  
23 are a lot of layers to uncover.  
24

1  
2           So with that, I'll conclude my testimony  
3 and welcome any questions you may have.

4           CHAIRPERSON KALLOS:     Thank you.  I know  
5 that Council Member David Greenfield has some  
6 questions and also has the Pesach which is quickly  
7 approaching.

8           COUNCIL MEMBER GREENFIELD:  Thank you  
9 very much Mr. Chairman, I appreciate it.  I want to  
10 thank all of you.  The goo goos for coming out, we  
11 appreciate.  You guys not like that term?  No?

12                           [Laughing]

13           COUNCIL MEMBER GREENFIELD:  You don't,  
14 really?  That's a nice term.  Goo goo.  Okay, the  
15 good government groups for coming out, we appreciate  
16 your testimony.  I tell you, you know I look at these  
17 various pieces of legislation and I think the one  
18 that obviously jumps out as being a particularly  
19 common sense piece of legislation as Council Member  
20 Garodnick's which is Intro 6, a little surprised  
21 honestly, I will tell you that my campaign, we  
22 voluntarily disclosed every ad that we paid for.  I  
23 was surprised to learn that it's not even a  
24 requirement.  So certainly, I think that we are all  
25 in agreement over there.  On the other pieces of

1 legislation, I certainly don't see harm, I'm just not  
2 as convinced as to how helpful, umm, they would be.  
3 And I guess the reason is because, you know, when you  
4 look at these paid for by New York for Progress,  
5 right? This ad is paid for by New York for Progress,  
6 the top five donors are the Hotel Workers for a  
7 Strong Middle Class, don't know who that is. Right,  
8 United Federation of Teachers, well that's not a bad  
9 thing. 32 BJSEIU Empire State Pac New Yorkers  
10 Together PSE Pac, now unless I've got like an hour on  
11 google, I don't really know who these people are.  
12 Right, I mean, I'm not talking about I do of course,  
13 I'm an elected official and you as good government  
14 groups your very tuned in. I just really wonder as  
15 to the requirements, does it really provide that much  
16 transparency to tell folks, that you know, the  
17 following unions paid for this. I'm not trying to  
18 dismiss it, I was actually thinking that perhaps what  
19 I would prefer to see and a very good example of this  
20 is both the Lhota ad and the Christine Quinn magician  
21 ad. I prefer to almost see like a tagline  
22 explaining, like, why these donors are spending this  
23 money  
24  
25



1                   So, you know, Christine Quinn should not  
2                   be mayor but she could be a magician. She made St.  
3                   Vincent's Hospital disappear. It has nothing to do  
4                   with the underlying theme of why they're actually, in  
5                   any of these ads, why are they actually advertising,  
6                   because in this particular case, NY class and their  
7                   supporters, they're trying to oppose the horse  
8                   carriages. I would almost prefer to see a tagline  
9                   that says the following was paid for by interests who  
10                  oppose horse carriages in New York City. Right, or  
11                  the following was paid for by unions who are  
12                  concerned that if this fellow gets elected we might  
13                  not do as well. Or, you know, the following is paid  
14                  for by real estate interest. I mean, I feel... do you  
15                  see my concern, I'm not opposed to any of this, I  
16                  think this is all great and it's wonderful, I'm just  
17                  not convinced that we're getting at the core problem  
18                  which is, I personally believe most voters spend a  
19                  few seconds looking at these ads, especially the ones  
20                  that come in the mail. I think they chuck it. With  
21                  all respect, I don't think anyone's gonna log on a go  
22                  to the URL and checkout the websites, I just don't  
23                  really see it happening. And I just wonder if we're  
24                  really getting at the core of it and I just wonder if  
25

1 we're already here and we have some of the greatest  
2 good government minds in the room, perhaps we can  
3 come up with a solution that actually gets us to  
4 where we want to go, which is the reason I... you know,  
5 the following attack ad has been paid for by the  
6 following special interest groups for the following  
7 reasons. That would actually be helpful. Not five  
8 random names that I've never heard of or quite  
9 frankly don't really matter to me if I live in the  
10 Bronx. You know, that the Koch brothers, ahh,  
11 contributed or didn't contribute to this particular,  
12 ahh, advertisement. I'm wondering what your thoughts  
13 are on that?

15 SUSAN LERNER: So I think we might have  
16 some first amendment problems in terms of ascribing  
17 specific motives to funder. But, I would go back to  
18 my earlier comments about the original California top  
19 2 disclosure, umm, so for instance, in that process  
20 California requires a name, umm, to use a name or  
21 phrase that clearly identifies the special interest  
22 of its major donors of \$50,000 or more. And this  
23 came about really because Californians were seeing a  
24 situation with initiatives, particularly in the  
25 environmental are, where grass-roots environmental

1 groups would qualify an initiative and then large  
2 umm, usually oil company interest, would then use  
3 their money to qualify a very similar initiative and  
4 they would choose a name that mirrored, in a major  
5 way the grass roots committee name, umm, in order to  
6 confuse the voter. Which they did very effectively,  
7 until this kind of disclosure went into effect. So I  
8 think given the problem, given the creativity of  
9 advertisers, I think we can be equally creative in  
10 terms of the disclosures which we craft, the bill may  
11 have to be a bit longer than what has been proposed  
12 to really dig into the question of how do you provide  
13 what I call meaningful disclosure to the voters at  
14 the time in which the information is most helpful to  
15 them. And it is a balancing act as people have said,  
16 but I do believe that we have models that are  
17 effective, working in other places, and with the kind  
18 of creativity here on a deep bench of the city  
19 council and with the good government groups and other  
20 interested entities. You know, 32BJ has put a memo  
21 in. They're interested in working on this. I think  
22 we can come up with a solution that's workable. The  
23 umm, Russian Doll problem is the most difficult one.  
24 But I'd like to point out that in California there

1  
2 was recently a multi-million dollar fine against Dark  
3 Money for the kind of transfers that this bill is  
4 trying to get into. Umm, because there were  
5 disclosure requirements that were flouted, and that  
6 allowed the regulatory authorities in California to  
7 track down the money to find out that the Dark Money  
8 actually had come from a source in Nevada. That they  
9 had deliberately transferred through two or three  
10 different levels in order to hide the fact that the  
11 money ultimately was coming from a particular right  
12 wing source.

13 So, with the right regulation in place, I  
14 think we can provide meaningful information not just  
15 in a regulatory scheme but in the ads themselves.

16 ALEX CAMARDA: If I could just add to  
17 that quickly.

18 COUNCIL MEMBER GREENFIELD: Before you  
19 add, I just have a specific question for you as well,  
20 so I want to keep short on time. So, in your  
21 particular case, right, you currently list your board  
22 members, but you would, under this legislation, have  
23 to have a separate square that says the following was  
24 paid for by these top five donors. Correct?

25 ALEX CAMARDA: That's correct.

[Interpose]

SUSAN LERNER: Yes. We believe...

[Interpose}

ALEX CAMARDA: I mean, we did contemplate internally, umm, something that would be more of a summary of the donors in an ad. That the donors themselves would then create, subject to review by the Campaign Finance Board and if it wasn't approved by the board then the donors would be disclosed. I know that has its own issues, but it gets to your point of trying to create something that's more of a shorter statement, that's descriptive about the donors rather than just names that may not mean a lot.

COUNCIL MEMBER GREENFIELD: I mean, I still, and I think it's great, and I think we should consider it, but I still come back to my main point which is if we're going to do it, I think we should do it in a way where we actually help voters understand what the agenda is and I would love to have a tagline of some sort. You know, we have a lot of smart attorneys and good government experts that sort of explains and says we took this ad out not because we think Joe Lhota is a tea party guy, but

1 really because we don't like his policy on unions.  
2 Or a similar concept, or some sort of disclaimer that  
3 actually explains it to folks because, as you point  
4 out, when you have unlimited access to funds you have  
5 very good advertising wizards who are gonna make much  
6 of this negligible and that's really my concern.  
7 That we feel great, and we did something good and at  
8 the end of the day the average voter looks at it and  
9 says, I don't know what the heck this means but I  
10 still know that apparently Christine Quinn and David  
11 Copperfield are both terrific magicians. Thank you.

12 CHAIRPERSON KALLOS: Thank you and a good  
13 Chavis. Council Member Lander.

14 COUNCIL MEMBER LANDER: Thanks very much  
15 to all of the organizations who were up here.  
16 However, you choose to describe yourselves, tagline...

17 [Laughing]

18 COUNCIL MEMBER LANDER: You know, I think  
19 some of you, first of all, all your organizations  
20 helped contribute to both the first and second  
21 iterations of Intro 148-A and actually the testimony  
22 today is great and I think gives us a lot of ability  
23 to drill down and improve it and I think, umm, you  
24 know think about how we'll fix radio and television  
25

1 disclosure, how to get the balance right between what  
2 goes on the communication and how to let people know  
3 they can get quickly to a lot more. Umm, all really,  
4 really helpful and we will be able to move forward.  
5 I will disclose, that's no secret to you, that, you  
6 know, in the original package that I announced last  
7 fall, I wanted a little box that said this mailing is  
8 toxic to democracy, umm, which I think would be the  
9 simplest way of describing the harm that independent  
10 expenditures are doing to the system. Sadly, umm, I  
11 think simplicity here may not prevail in that way,  
12 umm, I guess I, contrary to my colleague, actually  
13 think, and I think, whether you look at the Common  
14 Cause version with individual mailings or at the  
15 chart that Citizen's Union prepare. I am actually  
16 very encouraged in both cases by what it would  
17 provide to votes.

19 To me whether they're in the Bronx or  
20 elsewhere, I think that most New York voters are  
21 smart enough to know an awful lot from the  
22 information that would be provided here and the goal  
23 is straightforward. The goal is, and actually in  
24 some ways, no different from Council Member  
25 Garodnick's legislation which I also whole heartedly

1 support. Who's behind it? An I think in most  
2 situation that's enough information. That you would  
3 know that who's behind Jobs for New York or Jobs for  
4 Growth was a set of real estate interests, that you  
5 would know who was behind United for the Future, was  
6 a set of teachers' unions. That you would know who  
7 was behind New York Progress was a diverse set of  
8 unions and that the names provided... I was a little  
9 worried about this question of named donors and ahh,  
10 unions and corporate entities, and actually think you  
11 help in many ways, show that this is exactly what we  
12 would like to let people know as well as getting them  
13 to further information.

15 Umm, I wonder if any of you have an  
16 opinion, I think there was a this good question this  
17 issue raised by Council Member Garodnick, there's  
18 sort of overlapping issues; one, is one of threshold  
19 and where you think we ought to set the rule to see  
20 if the recommended bumping it from \$1,000 to \$5,000,  
21 on the transfer side, there's sort of a similar  
22 question of where it should sit on the donor side,  
23 umm, and I think the information about so much of it  
24 coming from big sources, so, you know, it's a little  
25 arbitrary, \$1,000, \$5,000, 10,000, \$25,000. But



1  
2 we're going to have to pick so I wonder if any of you  
3 have an opinion about that?

4           ALEX CAMADRA: I think it ought to be at  
5 a level umm significantly higher than the maximum  
6 contribution to candidates. And the reason for that  
7 is that if you read the recent McCutcheon decision,  
8 they essentially, the Supreme Court essentially said  
9 that when states set these base limits, they're  
10 essentially implying that a donation beneath the base  
11 limit is corrupt and so I think it ought to be well  
12 above the maximum limit to a candidate for city  
13 office.

14           SUSAN LERNER: I think the even numbers  
15 of 25 or 50,000 are numbers which the public can  
16 identify with pretty well and we are quite  
17 comfortable with having a specific floor that is  
18 specialized for this because it's a specialized  
19 problem and its different than just a straight  
20 contributor disclosure on a website.

21           COUNCIL MEMBER LANDER: Alex would this  
22 have...

23           [Interpose]

24           COUNCIL MEMBER LANDER: Oh God, I'm  
25 sorry, Jessie.

1  
2 JESSIE LAYMON: Thanks. I think about  
3 half of the committees in the last election spent  
4 \$50,000 or less, so I think 5 or 10 or going up to  
5 25,000 or 50,000 exclude a lot of the committees that  
6 are active just in a single council district.

7 COUNCIL MEMBER LANDER: And to be clear,  
8 the website requirement would remain to disclose all  
9 the donors so this is just what we would be doing for  
10 the on communication piece. Umm, I guess one  
11 question, Alex, I don't know if you this, would it  
12 change the chart that you have in any way? Did all  
13 those donors, I mean I guess you can follow-up on  
14 this, but it looks to me like all those donors  
15 probably gave at least \$10,000.

16 ALEX CAMADRA: Yes, most of the largest  
17 donors were, gave very large contributions. You know  
18 I actually think that a practical issue that came up  
19 which I didn't raise in my testimony but is in the  
20 written testimony, umm, is that some entities, you  
21 know, donors 2 through 10 gave the same amount. That  
22 was true in the case of Jobs for Growth, so how do  
23 you determine top five. In the case of Progress New  
24 York City, when I went to the CFB's web page, there  
25 were ten people listed all as executive director of

1           director. They all had the same title, so I couldn't  
2 tell who was in charge. So again, I think those  
3 practical issues have to be worked out.

4           SUSAN LERNER: So in some jurisdiction,  
5 they allow the committee themselves to choose. IF  
6 there are six or ten who have the same amount,  
7 they're allowed to choose. And in other situations,  
8 if you're looking as, you know, Council Member  
9 Greenfield suggested at the actual gravitas, as you  
10 will, of the committee, then in identifying who the  
11 ultimate funders are the bodies which probably here  
12 would be the CFB, would then be able to say, there  
13 are the five you should disclose.

14           COUNCIL MEMBER LANDER: And I guess I  
15 would also say, I think this.. that would go a long  
16 way, and another point that Council Member Garodnick  
17 made, to addressing this question of enabling  
18 individuals to give to causes where there might be  
19 some sensitivity, umm, obviously if what's on the  
20 mail pieces are large donors, those are folks who  
21 need to sign their names. So, this is very helpful.  
22 Thank you, Council Member Garodnick, sorry Council  
23 Member Lander. Council Member Garodnick:

2 COUNCIL MEMBER GARODNICK: Thank you.  
3 Very very quickly, ahh, and these are both for Ms.  
4 Lerner. Umm, the total that was spent in New York  
5 City Elections on independent expenditures was \$15.4  
6 million total in 2013? Is that the right...?

7 [Pause}

8 COUNCIL MEMBER GARODNICK: I'm just...

9 SUSAN LERNER: Yes, that's the figure  
10 that we have in our detailed report.

11 COUNCIL MEMBER GARDONICK: Okay, the  
12 reason I'm confused is, because I'm trying to make  
13 sense of the chart on page three of your testimony,  
14 which certainly suggests that, umm, the vast majority  
15 of contributions in two independent expenditure  
16 committees were in the range of, you know, \$50,000 or  
17 \$25,000 and up, but it looks like the total of the  
18 contributions in that chart are much higher than  
19 \$15.4 million.

20 SUSAN LERNER: Well I'm sitting here next  
21 to my research manager, who is like, "oh wow". So I  
22 think we may have an oops here.

23 COUNCIL MEMBER GARODNICK: Okay, well  
24 take a look at it, I just..., maybe the underlying  
25 conclusions are the same...

2 [Interpose]

3 SUSAN LERNER: The distribution is the  
4 same and perhaps there were typographical errors in  
5 the chart.

6 COUNCIL MEMBER GARODNICK: Okay. Take a  
7 look at it... And the other question I had was, of  
8 the examples that you have of top five disclosure on  
9 the 2013 materials, umm, where you give examples of  
10 what it may look like. This presumably is what umm  
11 Common Cause is recommending that the disclosure  
12 would look like as opposed to what it would look like  
13 if the current language...

14 [Interpose]

15 SUSAN LERNER: Correct.

16 COUNCIL MEMBER GARODNICK: ...if the  
17 current language of the bill were adopted, right?

18 SUSAN LERNER: That's correct. This was  
19 an example of how simple it could be.

20 COUNCIL MEMBER GARODNICK: I see, okay,  
21 got it. Because I noted that it was missing some of  
22 the things that are currently in the bill, like the  
23 officers, or the advertisers.

24 SUSAN LERNER: That's right. This was  
25 just a simplified version of what it could be.

2 COUNCIL MEMBER GARODNICK: Thank you.

3 CHAIRPERSON KALLOS: Thank you to our  
4 distinguished panel of good government groups.

5 SUSAN LERNER: Thank you.

6 CHAIRPERSON KALLOS: The next panel is  
7 Josh Rosenkranz from Orrick and Real Estate Board of  
8 New York and Yanos Martin who was an attorney, who  
9 was with the Moreland Commission, who was invited  
10 when we had him, Moreland Commission, which has since  
11 been disbanded but we still hope to have his  
12 testimony despite our governor's feeling that, if he  
13 creates it he can disband it.

14 [Pause]

15 JOSH ROSENKRANZ: Good afternoon,  
16 Chairman Kallos and members of the committee. Thank  
17 you for inviting me here. My name is Josh  
18 Rosenkranz. I am a partner and head of the Supreme  
19 Court and Appellate at Orrick, Herrington & Sutcliffe  
20 and am founding president and CEO of the Brennan  
21 Center for Justice at NYU School of Law and  
22 subsequently over the past decade in private  
23 practice.

24 I've really devoted much of my career to  
25 campaign finance reform to political reform. We have

1 both pressed and defended in court, all the way up to  
2 the U.S. Supreme Court, campaign finance measure.  
3 But by the same token, we have vehemently opposed and  
4 successfully challenged in court, various reforms  
5 that just went too far constitutionally.

7 I'm here today on behalf of the Real  
8 Estate Board of New York which represents over 15,000  
9 owners, developers, managers, and brokers in the real  
10 estate area in New York City. You know REBNY  
11 supports ardently, efforts to promote openness and  
12 transparency in the electoral process. REBNY also  
13 shares my view that in accomplishing that goal, we  
14 have to be very careful, not to unduly burden speech.  
15 To be both reasonable and even handed and for these  
16 reasons, REBNY supports Intro 6. Intro 6 will  
17 improve transparency by closing a loophole in the  
18 current system that allows candidates to produce  
19 anonymous campaign literature. And it holds  
20 candidates to the same level of transparency, as  
21 groups that are advocating in elections. With all  
22 respect to Council Member Lander, then we come to the  
23 opposite conclusion on Intro 148, which comes out the  
24 other way both as to the burdens and as to equal  
25 treatment.

1                   So let me start with the burdens. And  
2  
3 the Campaign Finance Board said it, umm, they said it  
4 quite a bit more delicately, they said.., they asked  
5 the council to "consider whether the burdens are  
6 unjustified", I'll say it more starkly, the burdens  
7 of this bill are harsh and they are utterly  
8 unjustified. The bill requires speakers to lard this  
9 political with a government message, a message so  
10 clunky that, at a minimum, it interferes with the  
11 political message that the speaker wants to utter,  
12 but worse it makes the add, in some circumstances, so  
13 ineffectual, that the speaker may just decide not to  
14 speak at all. I mean, the statistic that made me  
15 fall out of my seat, was that it takes 19 seconds to  
16 read the standard set of information required by this  
17 bill. 19 seconds in a 15 second ad or in a 30 second  
18 ad, you may as well not speak at all.

19                   And the burdens are unjustified. Most  
20 voters are not in the least bit interested in this  
21 information. Though, voters who are interested in  
22 this information can easily find it on the CFB's  
23 website. Everyone keeps talking about this as a  
24 question of disclosure. But these contributions are  
25 disclosed. They're disclosed and very easily



1 available. This is a question of forced speech and  
2 the government forcing people to utter particular  
3 messages.

4  
5 Turning now to equal treatment, if the  
6 justification of this bill is indeed that people  
7 really do need to know, not just who is speaking, but  
8 who is bankrolling the speech, if that's true than  
9 the City Council should be applying this rule to its  
10 own speech. And it should be putting on its own  
11 campaign literature. The five biggest bundlers,  
12 which in my mind is far more relevant to me as a  
13 voter, than what various outside groups are... who  
14 various outside groups are being funded by.

15 So there's no..., to my mind, no  
16 justification for requiring independent spenders to  
17 disclose this sort of information, if candidates  
18 themselves are not required to do it. Regardless of  
19 how you cut it, this forced speech is  
20 unconstitutional. Member Lander is just wrong, I  
21 would say, in saying that the Supreme Court has  
22 practically invited these reforms. The Supreme Court  
23 has actively stricken reforms that are far more  
24 modest than these, when the step has gone beyond  
25 disclosure to a government agency that is then

1  
2 accessible by the public to forcing people to utter  
3 messages in the course of their political speech.

4           So to some, Intro 6 proposes common  
5 sense, even-handed reforms which we support, but  
6 Intro 148 seeks to target particular groups to put  
7 them at a disadvantage vis-à-vis, incumbance, to  
8 chill the speech of those groups in a way that would  
9 be held unconstitutional. Thank you for your  
10 attention, I am happy to answer any questions, of  
11 course.

12           [Pause]

13           JANOS MARTON: Thank you Chairman Kallos  
14 and to the council members on the Governmental  
15 Operations Committee. My name is Janos Marton and I  
16 served from August until this month as special  
17 counsel to the Moreland Commission. Also known as  
18 the Commission to Investigate Public Corruption. I  
19 am testifying today, in my individual capacity,  
20 although I will be sharing, at least one antidote  
21 from my experience working on the Moreland Commission  
22 that's already in the public record. I also have a  
23 distributed a longer, ahh written testimony that  
24 covers several area that I won't be talking about  
25 right now, including, umm, reasons I believe that

1 Resolution 75 could have gone farther in addressing  
2 other issues that affect state campaign finance  
3 reform as well as other issues that this committee  
4 could potentially address in the future to improve  
5 that New York City Campaign Finance Board. Which,  
6 while a great system, is always in need of  
7 improvement, particularly because it's used so often  
8 as a national model, but because so many speakers  
9 have come before me and spoken on these issues and  
10 because its Friday afternoon, I'm going to try to be  
11 as succinct as possible.

12  
13           Regarding Intro 6, I believe like  
14 everyone else that it's a common sense bill and I  
15 whole heartedly support it. My only question is a  
16 very minor one and it relates to Subsection B and use  
17 of the word "authorized". Umm, from my understanding  
18 just by reading it, it seems that the purpose of that  
19 second clause is to capture coordination between  
20 certain groups who might distribute such anonymous  
21 attack ads late in the campaign on behalf of the  
22 candidate if not by the candidate himself and I just  
23 wonder if the word authorized could be more expansive  
24 if what we're really trying to capture is  
25 coordination. Given that, a candidate doesn't really

1 have to authorize a pac of 501(c)(4) to do anything.  
2 They can do it on their own. So, given that  
3 coordination is really an area of campaign finance  
4 reform that hasn't been fully litigated and  
5 undoubtedly will be in an era where super pacs are  
6 run by former staffers to prominent elected  
7 officials. I think it might be interesting to look  
8 at that particular area. But in sum, I am in total  
9 support of the bill.  
10

11 Turning to what's obviously been the more  
12 interesting conversation about Intro 148, umm, I  
13 think I come down somewhere around the same plane as  
14 the good government groups that have expressed some  
15 reservations about the way that the bill is drafted.  
16 Although I certainly commend its intent.

17 I'm going to share an experience from the  
18 Moreland Commission that informs the way I feel about  
19 this bill. So one of our tasks was to investigate  
20 the role of 501(c) groups in our election system.  
21 The commission's preliminary report highlighted the  
22 role of Common Sense principles which Alex Camadra  
23 described earlier is a Virginia Based 501(c) for non-  
24 profit that spent millions of dollars in 2010 and  
25 2012 elections. Predominately sending mailers

1 attacking democratic state senate candidates.  
2  
3 Investigative journalists and the Attorney General's  
4 Office were stymied in determining who bankrolled the  
5 group because Common Sense did not file with the New  
6 York Charity Bureau and does not have a real address  
7 even in Virginia, where it has a P.O. box. Even when  
8 the group filed with JCOPE in 2013, it claimed its  
9 sole donor was the Center for Common Sense, which is  
10 a shell entity in Florida, which again puts it  
11 outside the reach of New York Attorney General's  
12 office except, unless they were willing to put a lot  
13 of energy into finding out who that was.

14 Using a mailer ID number from a piece of  
15 Common Sense literature, we found that a New York  
16 based printing company was responsible for actually  
17 distributing the mailers in New York State, so we  
18 subpoenaed them to find out if they knew any more  
19 information about this group. The executive we spoke  
20 with at that company referred to Common Sense as a  
21 ghost company, meaning that while they printed and  
22 mailed literature, that said Common Sense on it, they  
23 actually had no knowledge of any entity called Common  
24 Sense and their checks came from an entirely separate  
25 entity in Florida, called media printing group.

1           Which is again outside the reach of most New York  
2 based subpoenas.  
3

4                       We finally found a web consultant who was  
5 based in New York City and thus subject to a Moreland  
6 Commission subpoena. An expensive legal team was  
7 hired to fight our subpoenas and the litigation with  
8 them was in midstream when the commission was shut  
9 down.

10                      I believe that had the litigation run its  
11 course, documents and communications from our  
12 subpoena may have revealed illegal campaign  
13 coordination. But, we all really need to know  
14 whether there was illegal coordination or not,  
15 because we know that the problem of 501(c)(4)  
16 vehicles being used to circumvent campaign finance  
17 laws is a growing problem across the country.

18                      Susan Lerner referenced the case in  
19 California, where it was revealed that several groups  
20 had spent millions of dollars without properly  
21 disclosing it. It should be noted that California  
22 has a very robust regulatory body looking into this  
23 and one of the reasons this was such a significant  
24 case is because that group was fined millions of  
25 dollars under the California Statute that governed

1 the misconduct, so, you know, if we were to use  
2 California as an example, we have to make sure that  
3 any penalties that arise in this situation would be  
4 severe enough to deter this kind of behavior. And  
5 again, that is but one example. We know that these  
6 kind of activities are happening all over the  
7 country. The cases in which they're actually  
8 convicted of wrongdoing are quite rare.

9  
10 And, so I brought up the Common Sense  
11 example and revisited the California example to  
12 demonstrate the sophistication with which major  
13 players use shell organizations. And, while I  
14 completely support the purpose of Intro 148 to  
15 educate voters about groups like Jobs for New York,  
16 umm, you know, I have to wonder whether a group that  
17 truly was committed to hiding its source of a..., its  
18 donor source, would be able to mask it through a  
19 variety of, you know, corporate vehicles. Whereas,  
20 the groups that would be most burdened would be the  
21 kind of more conventional non-profits that, umm,  
22 people would recognize by name, unions and small  
23 political action committees. Umm, as opposed to, you  
24 know, the kind of political action committee that can  
25

1  
2 use a lot of legal resources to twist their way  
3 around such a rule.

4           Saying all that, I do think that the  
5 intent is good and I would support it. I want to say  
6 a couple words about legal issues. You know, some  
7 people have said that, you're not constitutional  
8 lawyers and I guess it's kind of an arrogant thing to  
9 say, but you know, I did well in Con Law and have  
10 worked on these issues for a while. So I do want to  
11 address of the issues that have been raised.

12           SO there certainly is a line of cases  
13 talking about the rights of donors to have their  
14 information protected from, ahh, government, ahh,  
15 from governed action. And the Supreme Court, ahh,  
16 case line began with, ahh, NAACP v. Alabama which  
17 involved an NAACP activist in the 1950s whose  
18 information was being sought by subpoena and the  
19 court ruled that should that information be revealed  
20 the activist would be subject to such harassment and  
21 reprisal that they were actually protected from  
22 revealing that information.

23           Another similar case in that area  
24 involved a socialist worker's party in Ohio where it  
25 was found that revealing people who had donated to



1           such an unlikeable cause as the Socialist Worker's  
2 Party in the 1970s had actually caused previous  
3 members of that group to be fired from their jobs.  
4 SO that was clear example of harassment and reprisal.

5           Courts have set a very high bar for such  
6 protections, umm, and they have said that in..., for  
7 example in the Prop 8 case, that the kind of  
8 reprisals that happen I the course of a very feisty  
9 campaign like, even things that would seem as  
10 unseemly as, ahh, people's cars being marked up or  
11 yard signs being ripped down, do not rise to that  
12 level of harassment and reprisal. Today's dark money  
13 groups which are often led by billionaire and large  
14 corporations are pushing to that standard to expand  
15 to basically any form of retaliation or reprisal and  
16 in legal arguments they have made..., umm, they have  
17 claimed that a threatened economic boycott or  
18 something of that nature would constitute reprisal.  
19 Courts so far, have not agreed with them and, umm, I  
20 would think that..., on that grounds, umm, this  
21 litigation is fine.

22           I do think that the gentleman from REBNY,  
23 does make a point that will undoubtedly be raised in  
24 litigation, umm, perhaps by REBNY and perhaps by  
25

1 other entities that this could constitute, umm,  
2 intrusive and burdensome requirements. Intrusive in  
3 that its requiring organizations to reveal something  
4 about their..., so much about their corporate structure  
5 in the form of a mailer, which again, isn't something  
6 that is typical. And second that it does occupy so  
7 much..., it does clutter the message so much.

9 I don't believe, and I could be corrected  
10 if there is good case law suggesting that the  
11 message..., this message cluttering would mean a bill  
12 like this would be unconstitutional. In *McConnell v.*  
13 *FEC*, the issue of stand by your add, where, somebody  
14 in the television ad or radio ad, has to say, "I'm  
15 Barack Obama, and I approve this message". In a very  
16 brief discussion, the court found that that was  
17 constitutional. Umm, but there has been scholarship  
18 on that subject, suggesting that, you know, you need  
19 a strong government reason to have that kind of, umm,  
20 government requirement on a first amendment message  
21 and certainly that something that took up more time  
22 in an ad or more space on a page, would implicate  
23 that. And so, I don't think anybody can really say,  
24 with certainty, how such a litigation would come out,  
25 but certainly something to be aware of.

1  
2           And uhh, with that I'll conclude my  
3 remarks. Umm, I'm happy, of course, to take any  
4 questions on the subjects I raised here and in my  
5 written testimony.

6           CHAIRPERSON KALLOS: Council Member  
7 Garodnick and then Lander.

8           COUNCIL MEMBER GARODNICK: Thank you very  
9 much. Just two questions for Mr. Rosenkranz. Umm,  
10 thank you for your testimony. Umm, it seemed that  
11 most of what you viewed as the potential  
12 constitutional objection here, as you described  
13 larding up the communications, we're making more like  
14 a pharmaceutical ad, had to do, more with the amount  
15 of information as opposed to the content of the  
16 information that's being proposed here. Is that  
17 fair?

18           JOSH ROSENKRANZ: Most of what I said was  
19 certainly focused on the sheer magnitude of the  
20 disclosure when there is a line like, who paid for  
21 the ad, that is to say, you know, this ad was paid  
22 for, let's say, Jobs for New York. Umm, that would  
23 be less constitutionally vulnerable, there might  
24 still be problems, and it's certainly not something I  
25 would press here. But it's subject to what the

1 court's call, strict scrutiny. So the court's will  
2 ask, is there a compelling governmental interest for  
3 the governments requirement that someone utter any  
4 words, in the course of political speech, and only if  
5 the court finds that the interest is compelling will  
6 the court uphold, even a single sentence, of  
7 compelled speech.

8  
9 COUNCIL MEMBER GARODNICK: So in your  
10 view, as to Intro 6, you think that it would survive  
11 a scrutiny of compelling governmental interests, just  
12 saying, I am the candidate and I am speaking here.

13 JOSH ROSENKRANZ: Oh, sure. I mean... And  
14 I'll tell you why. I mean, candidates do suspend a  
15 certain amount of First Amendment freedom when they  
16 inject themselves into a race, and I do believe it  
17 would appropriate for the government to say, that  
18 candidates are not allowed to mask their own speech.  
19 And, by the way, and REBNY has taken the position  
20 that they are perfectly comfortable with the same  
21 rule being applied to an entity that they have to  
22 say, umm, Jobs for New York or whoever it is that is  
23 the entity sponsoring the ad, identifies themselves.

24 COUNCIL MEMBER GARODNICK: So if you were  
25 to look at a, it sounds like a sliding scale here of

1 constitutional, as to maybe the example that I  
2 gave in one of the last panels. If it took up 75% of  
3 the text of the page, the Supreme Court or anybody  
4 evaluating would likely say, no good. If it said,  
5 you know, paid for by Garodnick 2013, the Supreme  
6 Court would probably say, that's fine. The question  
7 then becomes whether, umm, there is a place, much  
8 closer to the latter example that I just gave, which  
9 would allow for just the disclosure of the top five  
10 donors. Perhaps not the address, maybe not the  
11 officers, would that in your view also not survive  
12 constitutional scrutiny.  
13

14 JOHN ROSENKRANZ: So let me respond to  
15 the premise first and then answer the question. I  
16 wouldn't call it a sliding scale. If it is, it  
17 doesn't slide very far. It is a balance. The  
18 Supreme Court measures the burden, against the  
19 justification and only if there's a compelling reason  
20 for the burden will the court uphold it.

21 I'll tell you what the court has done.  
22 The court has struck statutes..., that is the Supreme  
23 Court, statutes exactly like this. A statute that  
24 requires someone whose walking around getting  
25 signatures on a petition in connection with election

1  
2 to wear a button. Just a button, not even compelling  
3 him to utter words. A button that says, here's who I  
4 am and here's who's paying me to circulate the  
5 petition.

6 The Supreme Court has struck the  
7 requirement that someone who is soliciting charitable  
8 contribution, utter a single sentence, that sentence  
9 being, how much of your money actually goes to the  
10 charity in question.

11 Like we heard a lot about this California  
12 statute. All I can tell you is that the Ninth  
13 Circuit in which California resides, the Federal  
14 Court of Appeals struck a Nevada law that required  
15 people to list "responsible for paying for this ad"  
16 on their literature. So the courts..., You may call it  
17 sliding, but they're sliding ever so slightly.

18 COUNCIL MEMBER GARODNICK: Without having  
19 read the cases that you gave as examples, the button  
20 of somebody collecting petition signatures or the  
21 requirement that you disclose what percentage of your  
22 donation to a charitable organization actually is  
23 going to say, charity. To me, it seems like there  
24 could actually be a distinction and even a compelling  
25 governmental interest in having further disclosure of

1  
2 the sources of political communications, in the  
3 communication itself, in your mailbox or on your  
4 television screen.

5 I will agree with Council Member  
6 Greenfield in the notion that, if we were to just  
7 simply add a website and say for more information  
8 here. The opportunity is likely then lost for  
9 somebody to actually learn the source. We all, even  
10 those of us who have the privilege of sending out  
11 campaign mail from time to time, recognize the amount  
12 of time that even we spend looking at a political  
13 mailer that comes to us from one candidate or another  
14 and it's not that long. And even as interested  
15 people as we are, in knowing who's doing what, umm,  
16 the idea that you're going to put it aside and sit  
17 down later in the evening and actually check it out,  
18 is umm, maybe makes it available, but it makes it  
19 most likely lost.

20 So, to me then, if the question is  
21 whether its compelling governmental interests, my  
22 answer to that would be that it probably is. Umm,  
23 but it would have to be done in a way which does not  
24 take up too much of the space.

1  
2 JOSH ROSENKRANZ: Also, I guess I'd say,  
3 for better or worse, what matters is what the courts  
4 say a little bit more than what a Council Member says  
5 as to what would be, ahh.

6 [Interpose]

7 COUNCIL MEMBER GARODNICK: I'm not on the  
8 Supreme Court yet, but I'm waiting.

9 JOSH ROSENKRANZ: Getting there.

10 COUNCIL MEMBER GARODNICK: I agree with  
11 you. But, there's your opportunity though. If what  
12 you think, what I just said, you believe to be  
13 inaccurate. That it is not a compelling governmental  
14 interest. Is the evidence for that, and we'll look  
15 at that, and we'll go back and take a look, those two  
16 cases that you sited, the one with the petition  
17 gatherer and the other one about the charitable  
18 contributions. That's where you would focus our  
19 attention, to say, that is your precedent, City  
20 Council, that's what you should be looking at. And  
21 also the California Ninth Circuit.

22 JOHN ROSENKRANZ: Correct. Those are... I  
23 mean there's a whole body of law on compelled speech.  
24 It's not just those cases. Those are the ones that  
25 focus specifically on the question of, the



1  
2 distinction between disclosure on the one hand, that  
3 is, people can find the information, it's readily  
4 available, versus making the speaker himself or  
5 herself, actually utter the words or print those  
6 words.

7           And I'll read to you one sentence from  
8 one of those cases and I'm quoting here, "Requiring a  
9 publisher to reveal her identity on her election  
10 related communication is considerably more intrusive  
11 than simply requiring her to report to a government  
12 agency for later publication".

13           So yes, disclosure is, no question, a  
14 compelling governmental interest. But what the court  
15 is... what the courts are going to be asking is,  
16 whether the disclosure that is available easily for  
17 anyone to examine, is so much more inferior to the  
18 disclosure that is required on the face of the  
19 communication that it survives the even heightened  
20 scrutiny there that you are actually forcing someone  
21 in the course of a political message, to disrupt  
22 their message and articulate the government's.

23           COUNCIL MEMBER GARODNICK: Thank you.

24           CHAIRPERSON KALLOS: Thank you to one of  
25 my favorite, I will use the term constitutional

1  
2 lawyers, Council Member Dan Garodnick and onto  
3 Council Member Lander.

4 COUNCIL MEMBER LANDER: Thank you very  
5 much. Thanks to both of you for being here and Mr.  
6 Rosenkranz I really do appreciate your past work on  
7 campaign finance issues and your work with the  
8 Brennan Center. I confess that I wasn't familiar  
9 with REBNY's first amendment work prior to today, but  
10 I appreciate your being here doing it.

11 Umm, so I just want to be clear, your  
12 position is not that any on communication disclosure  
13 is impermissible.

14 [Pause]

15 Some on communications disclosures, it  
16 sounds like you believe is permissible.

17 JOHN ROSENKRANZ: I mean, I can imagine  
18 an on communication disclosure that would be  
19 permissible, like the requirement, certainly of a  
20 candidate, to say who's paid for the ad.

21 COUNCIL MEMBER LANDER: And that one is  
22 in fact, of course, to what would be required by  
23 Council Member Garodnick's legislation. Just so,  
24 you're clear, New York City law, actually already  
25

1  
2 requires paid for by, Jobs for New York... That's  
3 actually already...

4 [Interpose]

5 JOHN ROSENKRANZ: Yes right.

6 COUNCIL MEMBER LANDER: already a law.

7 REBNEY, I don't believe challenged it, they complied  
8 with it.

9 JOHN ROSENKRANZ: No, I think I disagree  
10 with you. Ahh, New York City law requires  
11 candidates, I'm sorry, the opposite, yes of course.  
12 Yes that was the point that I was making about even-  
13 handed. That Council Member Garodnick's fix forces  
14 candidates to do that which, umm, independent  
15 expenditure committees are already required to do.

16 COUNCIL MEMBER LANDER: So, okay, so  
17 there's some, you know, you described the strict  
18 scrutiny test, and a look at a compelling  
19 governmental interest that would be looked out to  
20 figure out whether on communication disclosure would  
21 be deemed as permissible.

22 JOHN ROSENKRANZ: Right.

23 COUNCIL MEMBER LANDER: Okay. Do you  
24 think, is it clear to you or is it gray to you, that  
25 some additional on communication disclosure beyond a

1 simply paid for by the committee is impermissible.  
2  
3 Were you..., could you..., Is it clear that the court  
4 would strike down any additionally compelled  
5 disclosure as part of a compelling governmental ....

6 JOHN ROSENKRANZ: So let me answer the  
7 question that's posed today; Is it clear to me...

8 [Interpose]

9 COUNCIL MEMBER LANDER: Well, that was  
10 the question that...

11 [Interpose]

12 JOHN ROSENKRANZ: No, no, I know, I  
13 understand. So, it is clear to me that the bill as  
14 currently written would be struck. I would be very  
15 happy to be the one challenging it. Umm, if your  
16 question is...

17 [Interpose]

18 COUNCIL MEMBER LANDER: Was...

19 JOHN ROSENKRANZ: It is conceivable...

20 [Interpose]

21 COUNCIL MEMBER LANDER: Was what my  
22 questions was...

23 JOHN ROSENKRANZ: No, no, I know, I said  
24 if your question is, is it conceivable that a few  
25 words beyond paid for by such and such would be

1 upheld? I haven't conceived of what that would be,  
2 but I'm certainly to persuasion that there are a few  
3 extra words that could be compelled and that there'd  
4 be a compelling government interest that would  
5 survive strict scrutiny. I just can't think of what  
6 that would be.

8 COUNCIL MEMBER LANDER: So, umm, well,  
9 I'm going to change the order of my questions a  
10 little bit.

11 So, umm, I appreciate your disclosure,  
12 for example, that you've come here today representing  
13 REBNY. Now, you're representing REBNY today, or are  
14 you representing Jobs for New York today?

15 JOSH ROSENKRANZ: I representing REBNY  
16 today.

17 COUNCIL MEMBER LANDER: And is that, do  
18 you think relevant to us, or material to us?

19 [Pause]

20 COUNCIL MEMBER LANDER: It must be or you  
21 wouldn't have told it to us.

22 JOHN ROSENKRANZ: I'm sorry, is it  
23 relevant to you who I'm speaking for, yes of course.

24

25

1  
2 COUNCIL MEMBER LANDER: It's relevant  
3 that you're speaking for REBNY and not for Jobs for  
4 New York.

5 JOHN ROSENKRANZ: Or, not for Orrick,  
6 Herrington and Sutcliffe. Yes.

7 COUNCIL MEMBER LANDER: Okay. So, you  
8 think there's a meaningful distinction between REBNY  
9 and Jobs for New York.

10 JOHN ROSENKRANZ: Of course there is,  
11 sure.

12 COUNCIL MEMBER LANDER: So do you think  
13 there is a difference between the disclosure that  
14 would be required on a mailing that would say paid  
15 for by Brad Lander for City Council and a mailing  
16 that would say, paid for by Jobs for New York when  
17 Jobs for New York is an entity that doesn't exist but  
18 for the purpose of that mailing and it was in fact  
19 set up and created by your client.

20 JOHN ROSENKRANZ: Well, let me dispute  
21 the premise. Set up and created by, I mean it was  
22 certainly funded by multiple...

23 [Interpose]

24  
25

2 COUNCIL MEMBER LANDER: Funded by, great.  
3 Let's just go with that. So, because I think those  
4 are some of the words we're looking for

5 JOSH ROSENKRANZ: Yeh, multiple  
6 organizations, but so, is it more.. I think your  
7 question was, do I see a difference between paid for  
8 by Brad Lander, on the one hand, and paid for by Jobs  
9 for New York. When you were a nobody and no one knew  
10 who you were, paid for by Brad Lander, meant  
11 absolutely nothing to me. I would have been much  
12 more interested in going to a website to learn all  
13 the sorts of information about you that, ahh, ahh, as  
14 to what you stand for, than I would..

15 [Interpose]

16 COUNCIL MEMBER LANDER: The name that was  
17 going to be on the ballot?

18 JOHN ROSENKRANZ: Yes.

19 COUNCIL MEMBER LANDER: Okay.

20 JOHN ROSENKRANZ: I as a voter want to,  
21 to the extent that I have the inclination to learn  
22 more about a candidate, yes. The name, Brad Lander  
23 meant nothing to me when you ran for City Council. I  
24 go to your website, I read what you stand for, that  
25 means something to me. I go to another website, I

1  
2 can look up who's contributed, that actually doesn't  
3 mean that much to me. But I can imagine it meaning  
4 something to someone else.

5 COUNCIL MEMBER LANDER: So. Okay. I  
6 would stipulate that the name of the candidate who's  
7 going to be on the ballot has some relevance in an  
8 election mailing and I do think that the fact that  
9 you helpfully disclosed that you're testifying to  
10 REBNY is extremely meaningful to us, as you know it  
11 is. And that the difference between REBNY and Jobs  
12 for New York is a fundamentally important and very  
13 meaningful difference. That the current laws  
14 obscure. So I look forward to talking more about  
15 what the compelling government interest is.

16 It sounds to me though, I guess, and I  
17 want to ask this, is that you think the best path  
18 that council could take, is to take the most  
19 conservative reading possible of the current  
20 jurisprudence in this area and that we would be well  
21 advised to stay as carefully within the  
22 jurisprudence, as conservative as we could possibly  
23 be, in respecting the rights of independent  
24 expenditures including REBNY's. And that that would  
25 be the best way that we could advance campaign



1  
2 finance law and the balanced concerns for free  
3 speech.

4           JOHN ROSENKRANZ: No I wouldn't say that  
5 all. I spent a good chunk of my career counseling  
6 organizations like the ones that were on the panel  
7 before me.

8           On the balance, what I said was this bill  
9 is so clearly unconstitutional, I would counsel the  
10 council not to spend its time trying to pass a law  
11 that will almost certainly be struck. That is not  
12 the same as saying that one should take the most  
13 conservative stance possible. Because I actually  
14 believe it is not at all difficult to argue why this  
15 bill is unconstitutional. And I believe, most any  
16 court will accept that argument.

17           As to the degree of tolerance for  
18 conservatism or not. That's really a matter of the  
19 City Council and its own appetite for wasting its  
20 time. Ahh, these statutes are coming up against  
21 increasingly musclebound interpretations of the First  
22 Amendment by courts that are being increasingly  
23 aggressive. And when I first entered this arena, 20  
24 years ago, of 18 years ago, I sat down with Common  
25 Cause and with League of Women Voters and I said, why

1  
2 are you doing this? I'm a reformer, I'm in favor of  
3 all of your reforms, but you're losing in court over  
4 and over again, can't we craft things that are more  
5 defensible. Because the First Amendment, A.  
6 Actually really matters, but B. even if you don't  
7 think it matters, there are people up there in black  
8 robes who are deciding the fates of your bills.

9 COUNCIL MEMBER LANDER: And so your.. I  
10 guess I'll rephrase then. Your advising us that our  
11 time is not well spent looking to push the envelope  
12 on independent expenditure disclosure, because very  
13 well-funded interests will bring lawsuits and the  
14 courts might strike it down.

15 JOHN ROSENKRANZ: I would not say that.  
16 What I would say is, you can spend your time however  
17 you want to, if you want to spend your time trying to  
18 press the envelope on passing a statute that is  
19 almost certain to be struck, be my guest. I mean,  
20 you know, I'm hoping that I'll be the one who's  
21 hired.

22 [Interpose]

23 COUNCIL MEMBER LANDER: I don't doubt  
24 that REBNY will pay you a good amount of money to  
25 seek to strike it down. I look forward to it.

1  
2 JOHN ROSENKRANZ: But I have spent a  
3 career pushing the envelope and trying to get.

4 [Interpose]

5 COUNCIL MEMBER LANDER: So what, do you  
6 have a different suggestion for what we could do  
7 here? Maybe you don't believe there was a... Actually  
8 let me ask...

9 [Interpose]

10 JOHN ROSENKRANZ: You know, I...

11 COUNCIL MEMBER LANDER: Actually, I have  
12 a couple of questions first. Let me ask a few  
13 questions. Did you spend some time reviewing the ads  
14 that REBNY, the mailings let me go with... that Jobs  
15 for New York, excuse me, mailed to voters during this  
16 cycle.

17 JOHN ROSENKRANZ: Yes.

18 COUNCIL MEMBER LANDER: You looked at all  
19 of them, you looked at...

20 [Interpose].

21 JOHN ROSENKRANZ: I didn't say I looked  
22 at all of them, you asked whether I spent some time  
23 looking at them, yes, I've looked at a lot of the  
24 ads.

2 COUNCIL MEMBER LANDER: You looked at the  
3 one that felt was an important message for voters,  
4 largely Puerto Rican, in Sunset Park, that Carlos  
5 Menchaca was from Texas and that many people assume  
6 was just designed to communicate that he was Mexican.

7 JOHN ROSENKRANZ: I just so happened,  
8 yes, to have reviewed that ad.

9 COUNCIL MEMBER LANDER: And the one that  
10 let people know that Clive Venelm's [sic] restaurant  
11 had failed.

12 JOHN ROSENKRANZ: I don't remember  
13 reviewing that one.

14 COUNCIL MEMBER LANDER: Or the one that  
15 told people Aida Fox [sic] hadn't made every  
16 community board meeting that she sat on.

17 JOHN ROSENKRANZ: Yes I did review that  
18 one.

19 COUNCIL MEMBER LANDER: Or the one that a  
20 donor to John Lesansky (phonetic) owed back taxes.

21 JOHN ROSENKRANZ: I vaguely remember that  
22 one.

23 COUNCIL MEMBER LANDER: Or that Ola Niche  
24 Allabe owed back rent.

1  
2 JOHN ROSENKRANZ: Can we just stipulate  
3 that I looked at a lot of ads, and uhh, most of the  
4 ones that you mentioned, I have looked at.

5 COUNCIL MEMBER LANDER: Do you think, I  
6 don't know whether REBNY, obviously thought it was  
7 important for voters to know those things. I think  
8 from the, you know, that there's a real question to  
9 be asked. There's no doubt that speech s protected  
10 and the courts have ruled that speech is protected.  
11 Umm, but I think that our interest in doing what we  
12 can to encourage the kind of speech that's most  
13 relevant to voters is a compelling governmental  
14 interest for this...

15 JOHN ROSENKRANZ: Oh boy, wow, so you  
16 are..., I will tell you are stepping into very  
17 dangerous constitutional...

18 [Interpose]

19 COUNCIL MEMBER LANDER: So I disagree  
20 with Citizens United, let me be clear, and I've said  
21 it before, and I'll say it again, we have to make  
22 sure this law survives the scrutiny the court will  
23 bring it, that doesn't change our ability to think  
24 that it was wrongly decided.

1                   JOHN ROSENKRANZ: Fair... No, that's fine.  
2  
3                   Umm, all I can tell you is it is the law of the land.  
4                   The Supreme Court is not changing..

5                   [Interpose]

6                   COUNCIL PERSON LANDER: Well, then I'll  
7                   tell you that this council..., the last council was on  
8                   record with by resolution saying that we thought the  
9                   decision was wrongly decided. Perhaps that was a  
10                  waste of our time but we thought it was important  
11                  enough to push forward on better campaign finance  
12                  laws, that we at least spent the time, saying we  
13                  believe it's wrongly decided. And I think express  
14                  the opinion and so now I'll come back to my earlier  
15                  question, that we want to improve and strengthen the  
16                  campaign finance laws as best we can, given the  
17                  landscape we have. So, sure, I'd be happy to hear, I  
18                  mean, Janos gave us, I think actually a number of  
19                  interest ideas for things we could do to strengthen  
20                  our campaign finance law. Our chair I know is a  
21                  strong advocate of this and might have other ideas  
22                  and so I'd be glad if you have a couple of ideas.

23                  JOHN ROSENKRANZ: I am happy to share  
24                  with you, ideas, but if I may first answer the  
25                  question you posed and then, preventing me from

1                   answering. You asked the question, whether it is  
2                   within the domain of the City Council...

3                   [Interpose]

4                   COUNCIL MEMBER LANDER: No I asked  
5                   whether you thought it was good idea.

6                   JOHN ROSENKRANZ: I'm sorry. Can I just  
7                   finish my thought?

8                   COUNCIL MEMBER LANDER: I mean if you  
9                   want to answer my question, yes. If you want to  
10                  answer a question I didn't ask, no.

11                  JOHN ROSENKRANZ: Okay, can I just  
12                  articulate what I thought you asked? I thought you  
13                  asked whether it's appropriate for the City Council  
14                  to do whatever is in its power to do, uhh, to remedy  
15                  this toxic, negative speech that's going on. And  
16                  that's when I said, you are on very dangerous  
17                  constitutional waters when you're using, what you  
18                  depict as a disclosure provision to essentially try  
19                  to reduce the amount of speech or the quality of the  
20                  speech. That's a no, no and that was a no, no,  
21                  before Citizen's United was decided. It's been  
22                  constitutionally inappropriate for at least 50 years.

23                  COUNCIL MEMBER LANDER: Okay. I mean I  
24                  think that's helpful. You were the one that used the  
25

1 word lard at the beginning and I'll be honest, I...  
2 REBNY had the right to send every one of those ads.  
3 There's no doubt they had the First Amendment right  
4 to send them. If we're talking about what's lard,  
5 those ads were lard. They were and honestly, the  
6 right they have to send them is clear. I think that  
7 most people would think, they aren't what really  
8 contribute to strengthening our democracy and that  
9 the compelling governmental interests of helping  
10 understand who actually sent them. Is something more  
11 than paid for by Jobs for New York. So I think that  
12 it has been made clear by all the good government  
13 groups here actually, there are ways that we can  
14 improve on this law. That we can take up less real  
15 estate on the mailers. That we can take up less time  
16 of the radio ad and narrow the speech that needs to  
17 be compelled to achieve the compelling governmental  
18 interest of letting people know who's really behind  
19 them, but that our current law doesn't do that at  
20 all.

21  
22 JOHN ROSENKRANZ: So you asked for my  
23 suggestions, one suggestion is, uhh, is to focus on  
24 what you say this bill is about which is disclosure,  
25 and make sure that the disclosure that is currently



1  
2 being done is as full and easily accessible as  
3 possible I mean the line that I've been  
4 distinguishing is the difference between what is  
5 disclosure and is available to any person, and by the  
6 way the press was all over this, they were telling  
7 voters exactly who funding.

8 COUNCIL MEMBER LANDER: And you really  
9 think the voters were reading those newspaper  
10 articles. All the folks who got the mailings were  
11 going on the web or reading those newspaper articles.

12 JOHN ROSENKRANZ: I think that whoever  
13 cares enough about who's speaking to them publically,  
14 to figure out who's behind them, yes. It is easily  
15 accessible to them and to Council Member Greenfield's  
16 point, the ones whose eyes are going to glaze over in  
17 a 30 second commercial ad, which is practically the  
18 entire American public, or the one whose ears will  
19 turn off the moment you start reciting these  
20 pharmaceutical type fast talking paid for by  
21 articulations, are going to be completely un-impacted  
22 by this change. So it's pure burden without any  
23 benefit.

24 COUNCIL MEMBER LANDER: Maybe I just have  
25 a more hopeful ahh image of the New York City voter.

1  
2 JOHN ROSENKRANZ: Oh, I have a very  
3 hopeful image of the New York City voter. I think  
4 they are very smart, and I think those who care know  
5 exactly where to look for the information.

6 COUNCIL MEMBER LANDER: I would just  
7 invite anyone who wants to evaluate whether that's  
8 what REBNY thinks to visit Toxic for  
9 Democray.tumblr.com and you'll see communications  
10 that I think you'd be hard pressed to argue, actually  
11 respect the intelligence of the voters or the  
12 integrity of our democracy.

13 But I do again thank you for coming out  
14 and testifying. We'll tighten the bill up so that  
15 when we meet in court it will have a much better  
16 chance of surviving.

17 JOHN ROSENKRANZ: I look forward it.

18 COUNCIL MEMBER LANDER: Thank you.

19 CHAIRPERSON KALLOS: Thank you for your  
20 testimony. I'm hoping to get this introduction  
21 passed as soon as possible. And with that, this  
22 meeting is adjourned.

23 [Gavel]

24

25

C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date 05/07/2014