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Testimony
of
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"Doing Business" with New York City
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Common Cause/NY is a citizen's lobby whose goal is open and accountable government. We appreciate the opportunity to offer testimony to you today.

We are pleased to participate in this discussion of the important issue of pay-to-play regulation. It is appropriate and commendable that the focus of today's discussion is political contributions from lobbyists. As we have stated in previous testimony before the board, Common Cause/NY believes that the definition of entities doing business with the city should include lobbyists hired by contractors wishing to do business with the city; legal firms hired by a contractor to develop their proposal or represent them before city agencies; and lobbyists seeking budgetary, administrative, regulatory or legislation action from city government.

As a June 15, 2001 Los Angeles City Ethics Commission Report stated, "by gaining access to an elected official and to his or her staff by virtue of financial relationships – including contributions made or arranged through fundraising activities – lobbyists and the interests they represent can unduly influence and distort the City's political and decision-making process. This occurs when registered lobbyists gain access to decision-makers for their clients that is not readily available to the ordinary citizens the official represents as a result of financial support for the officeholder."

Already, the amount that some interests pay to hire well-connected lobbyists to advocate for their interests gives rise to the public perception that some people have insider access to our elected officials while others struggle to be heard. This disproportionate influence violates the very spirit of democracy, in which each citizen's individual concerns are equal in the eyes of those who represent them. When these well-connected lobbyists additionally make political contributions far beyond the means of many New Yorkers, this feeling of imbalance grows.

In addition to the importance of limiting or banning campaign contributions from lobbyists generally, it is also important to note the particular value of limiting contributions from lobbyists whose clients are seeking or doing business from the city. When the Supreme Court upheld the McCain-Feingold Bipartisan Campaign Reform Act they noted that, "money, like water, will always find an outlet." This political truism applies nowhere better than in the case of pay-to-play regulation. It makes little sense to regulate contributions from those who do or seek business with the city, without also regulating contributions from the lobby and/or legal firms hired to represent these entities. Lobbyists and legal firms clearly represent outlets through which otherwise restricted contributions might flow, and we believe that pay-to-play regulation will be strongest if we anticipate and address these additional channels for contractor contributions.

This type of regulation is not without precedent. Massachusetts limits lobbyists to a $200 individual contribution to candidates compared to the $500 contribution limit for non-lobbyists. This restriction applies to all registered lobbyists, though I should note that a weakness in the Massachusetts law is that lobbyists are only required to register if they log 100 hours or more of lobbying time per year, an unusually high bar. Additionally, there is a strict gift ban in place in the state barring registered lobbyists for paying for anything for elected officials, including a cup of coffee.

Once again, we strongly believe that any limitation or ban on contributions from lobbyists and those who do business with the city must apply to all candidates, not only those who participate in the city's voluntary public financing program. Furthermore, Common Cause/NY also has concerns that contributions solicited by candidates or elected officials for purposes besides their campaigns would be outside of the purview of the regulations currently being considered.

A great deal of public attention has recently been paid to the city administration's solicitation of contributions for NYC 2012, the city's Olympic committee and a 501(c)3 tax-exempt organization that, according to its website, has "pledged to bring the Olympic Games to New York City without relying on public funds." The site goes on to say that "New York's bid is being entirely financed by private contributions from corporations, unions, individuals and foundations."

A cursory look on the website of NYC2012 reveals eight lobby firms – Greenberg Traurig LLP; Blank Rome LLP; Gibson Dunn & Crutcher; Paul, Hastings, Janofsky & Walker LLP; Wachtell, Lipton, Rosen & Katz; Winston & Strawn LLP; Kramer Levin Naftalis & Frankel, LLP; and Baker & Hostetler LLP – all of whom Common Cause/NY research shows have represented clients between 2003 and today before the city and state. Between them, these lobbyists have represented clients on issues ranging from zoning and land use to the proposed West Side stadium, lobbying the Mayor's Office, the City Council, the Department of City Planning, the Manhattan Borough President, the Queens Borough President, community boards, the Governor's office and the New York State legislature. Kramer Levin Naftalis was the number two lobbyist in New York State in 2003, according to the New York Temporary State Commission on Lobbying's 2003 Annual Report

While we have no doubt that the administration has the city's best interest at heart when soliciting contributions for NYC 2012, when lobbyists, and especially lobbyists who represent client with business before the city, are among those making these contributions, the potential for the public appearance of the same type of pay-to-play issues being discussed here today again arises. We feel that the city must consider the possibility of restricting contributions made to charities at the request of elected officials by lobbyists and those seeking or doing business with the city in the same way it is considering limitations on direct campaign contributions.

In addition to these limits on campaign contributions from registered lobbyists, Common Cause/NY has also historically supported a lobbyist gift ban in Albany. This year, Governor Pataki himself supported such a ban in his annual State of the State address. Thirty states currently have stronger gift restrictions than New York, either banning or limiting the size of gifts to a greater extent than our state, or placing an annual cap on the aggregate gift award. We have also testified before the New York Temporary State Commission on Lobbying in support of new rules requiring lobbyists to report their business relationships with lawmakers. In nineteen states, lobbyists are required to report any business relationships they have with lawmakers.

Thank you again for the opportunity to present testimony today.