NEW YORKERS FOR FIELDS

September 6, 2005

New York City Campaign Finance Board
40 Rector Street, 7th Floor
New York, NY 10006
BY FAX: 212.306.7143

Re: Miller campaign's claimed exempt expenditures

Dear Board Members:

New York City's landmark Campaign Finance Reform Program is a remarkable reform that was passed by City voters in 1988. Emerging from the corruption scandals of the mid 1980's, the Program is designed to reduce the influence of money in the political system and level the playing field for candidates without access to great financial resources. In other words, it is meant to make votes the currency of our democracy, not money.

That is why our campaign is deeply concerned about the expenditures that Gifford Miller's campaign has claimed as exempt from the expenditure limit. We have not seen the records underlying his claimed exempt expenditures. However, claiming that $1.5 million was spent on the narrow activities of complying with the campaign finance law and obtaining the 7500 valid signatures necessary to get on the ballot bends the imagination to the breaking point. We are concerned that Miller's claims will not only give Mr. Miller an unfair advantage, but that it will set a precedent that will eviscerate the good government principles the Campaign Finance Program is meant to serve.

The Miller campaign admits in its letter to the Board that it collected voter preference information in the course of petitioning. Voter preference is the critical information used by candidates to conduct the most basic, non-exempt campaigning activities: voter persuasion and getting out the vote. The campaign does not explain how and whether it used this information for petitioning, and, incredibly, Miller asks the Board (and all New Yorkers) to simply trust them and accept their assurance that they have "quarantined" the information. But simply trusting candidates is not what the Program is all about. It's about putting safeguards in place so that the public can be certain that candidates are not engaging in unfair and corrupt campaign practices. In collecting this information, the Miller campaign has clearly claimed exemptions for non-exempt activities and, in doing so, may have submitted false information to the Board.

The Miller campaign submitted a sample petition carrier contract with its letter. The contracts, which were apparently drafted by the campaign, state that the worker will

engage in the following activities: "collecting petition signatures; submitting petition signatures to a Petitioning Organizer on a daily basis; and compiling and submitting time sheets to a Petitioning Organizer on a daily basis". It further states "no services unrelated to petitioning will be provided." Yet, in addition to collecting voter preference information, petitioners were apparently handing out literature, including leaving literature at the door when the person was not home. This is classic, non-exempt campaign activity that the campaign should not be allowed to claim as exempt.

The Board has sought advice on the policy question of whether and to what extent the distribution of literature in the course of petitioning should be considered exempt from the expenditure limit. We believe that the five and a half weeks of petitioning should not provide campaigns an excuse to claim most or all of its normal campaign activities as exempt from the expenditure limit. Therefore, we suggest that the handing out of literature during the time the petitioning process is going on, and certainly creating a voter file during that time, should never be exempt from the expenditure limit. For the future, we would suggest that the Campaign Finance Board institute a bright line rule for campaigns that choose to employ workers who mix non-petitioning and petitioning activities, as we now know the Miller campaign was doing. For example, for petitioners who also distribute literature, to limit abuse the Board would allow only 25% of their pay to be exempt from the expenditure limit.

However, in this case we have no bright line rule in effect, and are left with documentation from the Miller campaign that may have misrepresented the activities of its petition carriers and organizers. If so, there is no way for the Board (or the public), to accurately assess how much of their work was devoted to traditional campaigning as opposed to petitioning activities.

The people of New York City voted for the Campaign Finance Program, and pay for it with their taxpayer dollars. For their money, they are entitled to expect that those candidates who join the Program play by the rules and compete on a level playing field. The records the campaign has submitted do not appear to reflect the activities workers and consultants were actually engaged in. Therefore, absent a further showing of the specific exempt activities by the petition carriers and organizers prior to the primary such as sworn oral testimony to the Board, they should not be considered exempt from the expenditure limit.

We thank the Board for this opportunity to comment on this matter.

Sincerely yours,

Leo Glickman, Esq. Jerry H. Goldfeder, Esq.