NEW YORK CITY LAW DEPARTMENT
OFFICE OF THE CORPORATION COUNSEL

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Press Release

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APPEALS COURT RULES IN CITY'S FAVOR IN MAJOR CAMPAIGN FINANCE REFORM CASE; SHINES A LIGHT ON THE NEED TO AVOID PAY-TO-PLAY POLITICS

DECISION LEAVES INTACT KEY CAMPAIGN FINANCE ACT REFORMS

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New York, Oct. 27, 2011 – The Second Circuit Court of Appeals today unanimously ruled in the City's favor in a highly important campaign finance case. The Court affirmed a lower court's dismissal of a challenge to certain Campaign Finance Act provisions. Those provisions:

- Limited campaign contributions by individuals and entities having business dealings with the City,
- Excluded such contributions from matching public funds, and
- Expanded the prohibition on corporate contributions to include partnerships, LLCs (limited liability corporations) and LLPs (limited liability partnerships).

Today's decision upholds a lower court ruling issued by Judge Laura Taylor Swain of the Southern District on Feb. 6, 2009. That decision upheld the constitutionality of amendments to New York City's Campaign Finance Act (enacted by Local Law 34 of 2007). That decision rejected claims that were a significant part of an ongoing lawsuit brought by former City Councilman Tom Ognibene, among others.

The provisions challenged -- known generally as "pay-to-play" regulations -- expanded an existing ban on corporate political contributions to cover LLPs, LLCs, and partnerships; imposed lower limits on contributions from those persons engaged in business dealings with the City; and excluded such "doing business" contributions from the 6-to-1 public matching funds available to donations from individuals. In upholding the challenged pay-to-play provisions, the Court rejected the plaintiffs' arguments that the provisions burdened their First Amendment rights of speech and association.

Amy Loprest, Executive Director of New York City's Campaign Finance Board, said: "The strict, low 'doing business' limits have helped further the chief goals of New York City's landmark Campaign Finance Program: to enhance the voice of the average New Yorker in the political process, and to reduce both the perception and possibility of corruption associated with large campaign contributions. We are pleased the Court has upheld this important reform."

[CAMPAIGN FINANCE BOARD TO FRESHEN.]

Corporation Counsel Michael A. Cardozo of the New York City Law Department, whose office litigated the case, said: "We are pleased that the Second Circuit upheld the lower court's ruling. This critical case shines a light on the importance of campaign finance reforms. The Campaign Finance Act was designed to ensure fairness and transparency in our local elections. The appeals court upheld the constitutionality of these provisions."

The Court's decision today included assorted opinions from the three-judge panel, with the majority unanimously affirming the

"When those who do business with the government or lobby for various interests give disproportionately large contributions to incumbents, regardless of their ideological positions, it is no wonder that the perception arises that the contributions are made with the hope or expectation that the donors will receive contracts and other favors in exchange for these contributions. The threat of quid pro quo corruption in such cases is common sense and far from illusory," the Court wrote on page 25.

"Doing business contributions mix money and politics on both ends of the equation, making them that much more risky and questionable. Contributions to candidates for City office from persons with a particularly direct financial interest in these officials' policy decisions pose a heightened risk of actual and apparent corruption, and merit heightened government regulation," the Court added on page 26.

The Law Department's legal team was led by Senior Counsel Jane Gordon of the Appeals Division, with assistance from Law Department attorneys Jonathan Pines, Lisa Grumet, Andrew Rauchberg, Steve Kitzinger and Jesse Levine (recently retired).

"Quote," said Jane Gordon.

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