

Gifford
Miller
for New York

June 29, 2005

Campaign Finance Board
Attn: Nicole Gordon
40 Rector Street
New York, NY 10006

Re: Request for Advisory Opinion

Dear Campaign Finance Board Members:

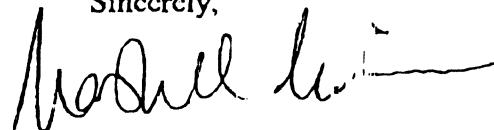
We respectfully request an advisory opinion that a runoff primary election for the Democratic nomination for Mayor is "reasonably anticipated," within the meaning of Campaign Finance Board ("CFB") Rule 1-04(q). It is our understanding that once the CFB issues such an opinion, candidates seeking the Democratic nomination for Mayor would be authorized to open a separate bank account for the deposit of contributions accepted exclusively for use in the anticipated runoff primary election.

As you know, New York Election Law § 6-162 provides for a runoff primary election if no candidate receives 40 percent or more of the votes cast in a party primary for mayor. Pursuant to this provision, runoff primary elections were held to nominate a Democratic mayoral candidate when four or more candidates appeared on the primary election ballot in 1973, 1977, and 2001.

Four candidates have raised significant funds for the Democratic primary election this year, which does not include an incumbent candidate. Published public opinion polls have consistently shown that no candidate seeking the Democratic nomination – even those with high name recognition – would command the 40 percent vote needed to avoid a runoff primary. History strongly suggests that, once the candidates begin to spend their resources in earnest, lesser-known candidates will garner far more support than is reflected in the current polls. Thus, a tightening race is to be expected, virtually guaranteeing a run-off election.

For similar reasons, in March 2001, the Board concluded, correctly, that a Democratic mayoral runoff primary election was "reasonably anticipated." See CFB Advisory Opinion No. 2001-1 (Mar. 13, 2001). Therefore, we respectfully urge the Board to address this question at its next meeting. Thank you for your consideration.

Sincerely,



Marshall Miller
Treasurer