

October 3, 2008

Hon. Frank Clark  
Erie County District Attorney  
25 Delaware Ave.  
Buffalo, NY 14202

2008 OCT -6 PM 1:08

Dear District Attorney Clark:

We believe that the primary campaign of Barbra Kavanaugh for State Assembly against Assemblymember Sam Hoyt was coordinated with the "unauthorized committee," Responsible New York, in direct violation of Election law 14-126(4). [Exhibit A]. This violation constitutes an E Felony. We ask for a full scale investigation by your office and may the facts take you wherever they may.

The purpose of section 14-126(4) seems clear: If an "unauthorized committee" is going to work on behalf of a particular candidate and not run afoul of the campaign contribution limits then the unauthorized committee and an individual candidate's campaign must act completely independently. If the two groups were allowed to coordinate then there would simply be no point in campaign contribution limits at all. Therefore, the law prohibits "coordination."

The real legal question moving forward is exactly what constitutes "coordination." While it is not specifically defined in the Election Law, section 14-100(9)(3) does define the concept most applicable to these circumstances. [Exhibit B]. A portion of that section reads:

For purposes of this article, the term "independent of the candidate or his agents or authorized political committees" shall mean that the candidate or his agents or authorized political committees did not authorize, request, suggest, foster or cooperate in any such activity.

It is our contention that the term "coordination" is close enough in meaning to "independent of the candidate" as described above that anyone who does "authorize request, suggest, foster or cooperate" activities between an unauthorized committee and an individual candidate's campaign is guilty of "coordination."

Even with no agreed upon definition of "coordination," we believe there is enough evidence to warrant a full scale investigation. In particular, we believe that the facts will lead you to find that G. Steven Pigeon, former Chairman of the Erie County Democratic Party, committed the crime of coordination. We also believe a full scale investigation will uncover unlawful behavior by many others involved with Responsible New York and the Barbra Kavanaugh campaign.

First, by way of background, it is important to note that Steve Pigeon was involved in the primary campaign against Assemblymember Sam Hoyt in 2004. In that

campaign, Steve Pigeon directed the expenditures of hundreds of thousands of dollars against Sam Hoyt on behalf of his opponent Joe Golombek. These expenditures, all derived from the PAC Renew NYS, which was funded primarily by then County Executive Joel Giambra, far exceeded all campaign contribution limits. I have enclosed all of the correspondence between Assemblymember Sam Hoyt and the New York State Board of Elections regarding this matter. [Exhibit C]. As you can see, fifteen months after the violation, the State Board of Elections dropped the investigation when Renew NYS converted itself from a PAC into a multi-candidate committee and returned portions of its donations.

We have enclosed a newspaper article that investigates Steve Pigeon's role in coordinating the activities of the Renew NYS PAC and the Joe Golombek campaign for Assembly. In this article, Steve Pigeon does not deny this coordination and, it seems, boasts about it. [Exhibit D].

Moving into 2008, we find Steve Pigeon helping create a new committee named Responsible New York, exclusively funded by billionaire Thomas Golisano. The announcement of the committee occurred on July 8, 2008. At that announcement, Steve Pigeon was standing right next to Mr. Golisano. [Exhibit E]. It is worth noting that the original announcement described Responsible New York as a PAC, a wholly different legal entity under New York State law. [Exhibit F]. PAC's are governed by the same campaign contribution limits as corporations, so Steve Pigeon and Thomas Golisano ultimately created an unauthorized committee to avoid these limits.

Jack O'Donnell was also helping to coordinate the creation of Responsible New York. Jack O'Donnell has a long standing relationship with Steve Pigeon and was Executive Director of the Erie County Democratic Party when Steve Pigeon was its Chairman. On July 8, 2008 at least one media source quoted Jack O'Donnell as "helping out a little" with the Golisano committee. [Exhibit G]. At that same time, Jack O'Donnell was one of two signatories for Friends of Barbra Kavanaugh. [Exhibit H]. Thus, while he was assisting Thomas Golisano and Steve Pigeon to establish Responsible New York, an unauthorized committee that would ultimately spend hundreds of thousands of dollars to help Barbra Kavanaugh, he was also one of two people who could sign checks on behalf of Barbra Kavanaugh's campaign. Currently, it seems likely that Mr. O'Donnell is a paid consultant for Responsible New York or, is receiving payment indirectly through one of the many corporate entities receiving funds from Responsible New York.

As I have said, the exact definition of "coordination" for purposes of this section of the Election Law is not established. As lawyers, we use comparisons, analogies and precedent to begin to determine what a given term may mean. In this case, it would seem that Responsible New York and Steve Pigeon have helped craft that definition.

As you may know, County Legislator Michelle Ianello, who just lost a primary to Joe Mesi for State Senate, raised these same issues more than a month ago. [Exhibit I]. It was her contention that because Steve Pigeon was a signatory for candidate Joe Mesi

(just as Jack O'Donnell was a signatory for Barbra Kavanaugh) that there must be an investigation into the coordination between the Joe Mesi campaign and Responsible New York. In an effort to quell such concerns, election attorney Henry Berger, who at one point represented Responsible New York, informed the media that Steve Pigeon would not be making any decisions in the Mesi effort. [Exhibit J].

Clearly, the attorney was attempting to avoid coordination between the Joe Mesi campaign and Responsible New York. He tried to set up a fire wall between the Mesi campaign and Steve Pigeon in so far as no actions taken by Responsible New York in the Mesi campaign would be directed by Steve Pigeon. The attorney and Steve Pigeon understood the potential legal ramifications of coordination and attempted to avoid them, at least publicly. However, I have been unable to find any similar public declaration regarding Jack O'Donnell and the Barbra Kavanaugh campaign. All we know is that until August 7, 2008 a full month after the creation of Responsible New York and several weeks after Steve Pigeon publicly declared its support for Barbra Kavanaugh, Jack O'Donnell remained a signatory for Barbra Kavanaugh. [Exhibit K]. Moreover, it is our understanding that Jack O'Donnell actually purchased the ads on television attacking Sam Hoyt, physically delivering the check to the various stations the week before the primary.

As a veteran of political campaigns, you certainly understand the importance of resource allocation. A campaign must determine how much money it can raise and where best to spend it in order to maximize its impact. Coordination between an unauthorized committee and a candidate's campaign dramatically aids that campaign because the decisions related to resource allocation become easy. For example, in the last week of the campaign, Responsible New York paid for an advertisement in Artvoice promoting Barbra Kavanaugh. [Exhibit L]. If Barbra Kavanaugh's campaign knew that this ad was being purchased then they did not have to decide whether they should run their own ad. (By the way, there was no ad in Artvoice directly from the Kavanaugh campaign, only the one from Responsible New York).

In the last few weeks of the campaign, a new lawn sign began appearing throughout the district advertising Barbra Kavanaugh. If the Kavanaugh campaign knew these signs were being ordered then they did not have to order their own and could use their money for mailings and other activities. Furthermore, it seems unlikely that Responsible New York found locations for Barbra Kavanaugh lawn signs. What is more plausible is that sign locations were provided to Responsible New York from someone inside the Kavanaugh campaign.

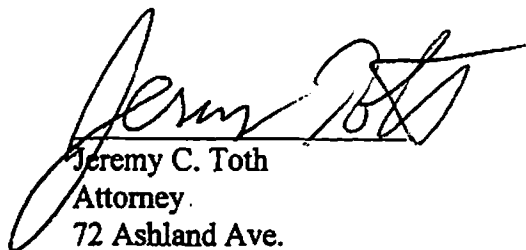
Even more significantly was Barbra Kavanaugh's decision not to attack Assemblymember Sam Hoyt using the Friends of Barbra Kavanaugh account. No one with even a modicum of political experience believed Barbra Kavanaugh could defeat Assemblymember Sam Hoyt without attacking him. However, she chose not to attack him directly. It is safe to assume that she knew that Steve Pigeon would direct his usual spate of nasty attacks against Sam Hoyt, thereby obviating the need for her own campaign to pay for the negative advertising. This tactic also gave her the benefit of appearing positive and above the muck. However, if she or anyone on her campaign

team knew what Steve Pigeon was planning, and it is laughable to suggest they did not know what was being planned, then there was illegal coordination. In other words, the passing of knowledge and strategy between the Kavanaugh campaign and Responsible New York is exactly what Election Law 14-126(4) is intended to prevent and yet it appears that that is exactly what occurred.

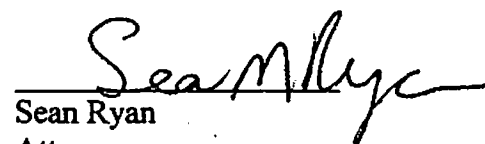
As evidence of this communication, I direct your attention to an article in The Buffalo News that appeared the day after the primary. [Exhibit M]. When asked about the negative attacks paid for by Responsible New York, Kavanaugh apparently said "I said all of time, 'Don't do it.'" I submit that this statement, assuming she was quoted accurately, is an outright admission that she was communicating with someone from Responsible New York and, therefore, illegally coordinating.

In conclusion, given Steve Pigeon's public declarations throughout the campaign on behalf of Barbra Kavanaugh and against Sam Hoyt, given Jack O'Donnell's formal role with the Kavanaugh campaign and his probable paid role with Responsible New York, given the long history of Steve Pigeon's involvement with shady political organizations that are regularly sued and investigated, and given the evidence of the Kavanaugh campaign's actions and inactions throughout the summer, it is clear that multiple persons engaged in illegal coordination between Responsible New York and the Barbra Kavanaugh campaign for Assembly. I ask you that fully investigate these matters.

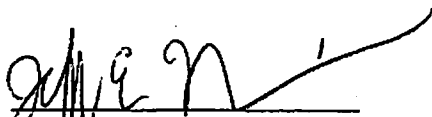
Respectfully,



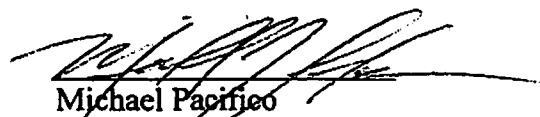
Jeremy C. Toth  
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72 Ashland Ave.  
Buffalo, NY 14222



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Attorney  
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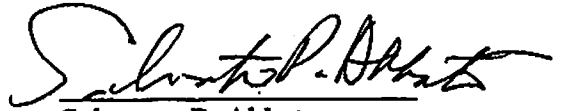
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1 of 1 DOCUMENT

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\*\*\* THIS SECTION IS CURRENT THROUGH CH. 497, 08/20/2008 \*\*\*

ELECTION LAW  
 ARTICLE 14. CAMPAIGN RECEIPTS AND EXPENDITURES

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NY CLS Elec § 14-126 (2008)

§ 14-126. Violations; penalties

1. Any person who fails to file a statement required to be filed by this article shall be subject to a civil penalty, not in excess of [fig 1] five hundred dollars, to be recoverable in a special proceeding or civil action to be brought by the state board of elections or other board of elections.
2. Any person who knowingly and willfully fails to file a statement required to be filed by this article within ten days after the date provided for filing such statement or any person who knowingly and willfully violates any other provision of this article shall be guilty of a misdemeanor.
3. Any person who knowingly and willfully contributes, accepts or aids or participates in the acceptance of a contribution in an amount exceeding an applicable maximum specified in this article shall be guilty of a misdemeanor.
4. Any person who shall, acting on behalf of a candidate or political committee knowingly and willfully solicit, organize or coordinate the formation of activities of one or more unauthorized committees, make expenditures in connection with the nomination for election or election of any candidate, or solicit any person to make any such expenditures, for the purpose of evading the contribution limitations of this article, shall be guilty of a class E felony.

**HISTORY:** Add, L 1976, ch 233, eff Dec 1, 1977. Substance derived from § 485. Amd, L 1978, ch 8, § 48, eff Mar 7, 1978.

Section heading, amd, L 1978, ch 8, § 48, eff Mar 7, 1978.

Subs 1-3, formerly subs a-c, so redesignated, L 1978, ch 9, § 106, eff Mar 7, 1978.

Former subs a-c, redesignated subs 1-3, L 1978, ch 9, § 106, eff Mar 7, 1978.

Sub 4, formerly sub d, add, L 1978, ch 8, § 48, eff Mar 7, 1978; so redesignated, L 1978, ch 9, § 106, eff Mar 7, 1978.

Former sub d, add, L 1978, ch 8, § 48, eff Mar 7, 1978; redesignated sub 4, L 1978, ch 9, § 106, eff Mar 7, 1978.

Sub 1, amd, L 1994, ch 128, § 1, eff Jan 1, 1995.

The 1994 act deleted at fig 1 "one"

**NOTES:**

**New York References:**

Definitions and classification of offenses, CLS Penal §§ 10.00, 55.10

Classification and designation of offenses, CLS Penal Art 55, §§ 55.00 et seq

**NYCRR References:**

Filing statements of campaign receipts and expenditures. 9 NYCRR §§ 6200.1 et seq

**Research References & Practice Aids:**

50 NY Jur 2d, Elections §§ 523, 841, 842  
50 NY Jur 2d, Elections §§ 531, 889, 890  
26 Am Jur 2d, Elections § 381

**Annotations:**

Validity, construction, and application of state statutory voting offenses. 5 ALR6th 1

**Law Reviews:**

Bursten, Breitner, Surveying Watergate's Impact on State Campaign Financing. 48 NYS BJ 120-6, February, 1976

**LexisNexis 50 State Surveys, Legislation & Regulations**

**Campaign Practices & Financing**

**Case Notes:**

1. Generally 2.--5. [Reserved for future use.] 6. Under former § 485

1. Generally

Plaintiff's action seeking to impose fines and sanctions against defendants under CLS Elec § 14-126 for publication of allegedly defamatory statements in campaign flyer were properly dismissed since there is no private right of action under statute. *Seltzer v Orlando* (1996, 1st Dept) 225 AD2d 456, 656 NYS2d 1, app dismd without op 88 NY2d 919, 646 NYS2d 986, 670 NE2d 227 and app den 88 NY2d 813, 649 NYS2d 380, 672 NE2d 606.

2.--5. [Reserved for future use.]

6. Under former § 485

If a company, engaged primarily in enhancing the public image of a candidate who engages its services, performs services for the candidate or his committee and bills the candidate or his committee, and extends this credit with the intent to eventually write it off as a bad debt, in order to evade the contribution limitations of § 480(b) of the Election Law, the company would face prosecution for violation of § 485 of the Election Law. *St Bd Elections Op #8*.

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ELECTION LAW  
ARTICLE 14. CAMPAIGN RECEIPTS AND EXPENDITURES

Go to the New York Code Archive Directory

NY CLS Elec § 14-100 (2008)

§ 14-100. Definitions

As used in this article:

1. "political committee" means any corporation aiding or promoting and any committee, political club or combination of one or more persons operating or co-operating to aid or to promote the success or defeat of a political party or principle, or of any ballot proposal; or to aid or take part in the election or defeat of a candidate for public office or to aid or take part in the election or defeat of a candidate for nomination at a primary election or convention, including all proceedings prior to such primary election, or of a candidate for any party position voted for at a primary election, or to aid or defeat the nomination by petition of an independent candidate for public office; but nothing in this article shall apply to any committee or organization for the discussion or advancement of political questions or principles without connection with any vote or to a national committee organized for the election of presidential or vice-presidential candidates; provided, however, that a person or corporation making a contribution or contributions to a candidate or a political committee which has filed pursuant to section 14-118 shall not, by that fact alone, be deemed to be a political committee as herein defined.
2. "party committee" means any committee provided for in the rules of the political party in accordance with section two-one hundred of this chapter, other than a constituted committee.
3. "constituted committee" means a state committee, a county committee or a duly constituted subcommittee of a county committee;
4. "duly constituted subcommittee of a county committee" means, outside the city of New York, a city, town or village committee, and, within the city of New York, an assembly district committee, which consists of all county committee members from the city, town, village or assembly district, as the case may be, and only such members;



5. "non-candidate expenditures" means expenditures made by a party committee or a constituted committee to maintain a permanent headquarters and staff and carry on ordinary party activities not promoting the candidacy of specific candidates;

6. "district" means the entire state or any part thereof, as the case may be;

7. "candidate" means an individual who seeks nomination for election, or election, to any public office or party position to be voted for at a primary, general or special or New York city community school district election or election for trustee of the Long Island Power Authority, whether or not the public office or party position has been specifically identified at such time and whether or not such individual is nominated or elected, and, for purposes of this subdivision, an individual shall be deemed to seek nomination for election, or election, to an office or position, if he has (1) taken the action necessary to qualify himself for nomination for election, or election, or (2) received contributions or made expenditures, given his consent for any other person to receive contributions or make expenditures, with a view to bringing about his nomination for election, or election, to any office or position at any time whether in the year in which such contributions or expenditures are made or at any other time; and

8. "legislative leader" means any of the following: the speaker of the assembly; the minority leader of the assembly; the temporary president of the senate and the minority leader of the senate.

9. "contribution" means:

(1) any gift, subscription, outstanding loan (to the extent provided for in section 14-114 of this chapter), advance, or deposit of money or any thing of value, made in connection with the nomination for election, or election, of any candidate, or made to promote the success or defeat of a political party or principle, or of any ballot proposal,

(2) any funds received by a political committee from another political committee to the extent such funds do not constitute a transfer,

(3) any payment, by any person other than a candidate or a political committee authorized by the candidate, made in connection with the nomination for election or election of any candidate, or any payment made to promote the success or defeat of a political party or principle, or of any ballot proposal including but not limited to compensation for the personal services of any individual which are rendered in connection with a candidate's election or nomination without charge; provided however, that none of the foregoing shall be deemed a contribution if it is made, taken or performed by a candidate or his spouse or by a person or a political committee independent of the candidate or his agents or authorized political committees. For purposes of this article, the term "independent of the candidate or his agents or authorized political committees" shall mean that the candidate or his agents or authorized political committees did not authorize, request, suggest, foster or cooperate in any such activity; and provided further, that the term contribution shall not include:

(A) the value of services provided without compensation by individuals who volunteer a portion or all of their time on behalf of a candidate or political committee,

(B) the use of real or personal property and the cost of invitations, food and

beverages voluntarily provided by an individual to a candidate or political committee on the individual's residential premises for candidate-related activities to the extent such services do not exceed five hundred dollars in value, and

(C) the travel expenses of any individual who on his own behalf volunteers his personal services to any candidate or political committee to the extent such expenses are unreimbursed and do not exceed five hundred dollars in value.

10. "transfer" means any exchange of funds or any thing of value between political committees authorized by the same candidate and taking part solely in his campaign, or any exchange of funds between a party or constituted committee and a candidate or any of his authorized political committees.

11. "election" means all general, special and primary elections, but shall not include elections provided for pursuant to the education law, special district elections, fire district elections or library district elections.

**HISTORY:** Add, L 1976, ch 233, eff Dec 1, 1977. Substance derived from § 467.

Sub 1, formerly sub a, amd, L 1978, ch 8, § 34; so redesignated, L 1978, ch 9, § 96, both eff Mar 7, 1978; amd, L 1982, ch 647, § 25, eff Jan 1, 1983.

Former sub a, amd, L 1978, ch 8, § 34, eff Mar 7, 1978; redesignated sub 1, L 1978, ch 9, § 96, eff Mar 7, 1978.

Subs 2-6, formerly subs b-f, so redesignated, L 1978, ch 9, § 96, eff Mar 7, 1978.

Former subs b-f, redesignated subs 2-6, L 1978, ch 9, § 96, eff Mar 7, 1978.

Sub 7, formerly sub g, so redesignated, L 1978, ch 9, § 96, eff Mar 7, 1978; amd, L 1983, ch 955, § 1, eff Oct 7, 1983.

Former sub g, redesignated sub 7, L 1978, ch 9, § 96, eff Mar 7, 1978.

Sub 8, formerly sub h, so redesignated, L 1978, ch 9, § 96, eff Mar 7, 1978.

Former sub h, redesignated sub 8, L 1978, ch 9, § 96, eff Mar 7, 1978.

Sub 9, formerly sub i, add, L 1978, ch 8, § 35, so numbered, L 1978, ch 9, § 96, both eff Mar 7, 1978; amd, L 1983, ch 70, § 1, eff May 3, 1983.

Former sub i, add, L 1978, ch 8, § 35, eff Mar 7, 1978; redesignated sub 9, L 1978, ch 9, § 96, eff Mar 7, 1978.

Subs 10 and 11, formerly subs j and k, add, L 1978, ch 8, § 35, so redesignated, L 1978, ch 9, § 96, both eff Mar 7, 1978.

Former subs j and k, add, L 1978, ch 8, § 35, eff Mar 7, 1978; redesignated subs 10 and 11, L 1978, ch 9, § 96, eff Mar 7, 1978.

Sub 1, amd, L 1988, ch 71, § 2, eff May 9, 1988.

Sub 7, amd, L 1986, ch 517, § 7, eff Jan 15, 1987, L 1987, ch 480, § 1, eff July 30, 1987.



State of New York  
**STATE BOARD OF ELECTIONS**

40 STEUBEN STREET  
ALBANY, N.Y. 12207-2108  
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www.elections.state.ny.us

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Commissioner

Elizabeth C. Hogan  
Enforcement Counsel

August 11, 2008

Honorable Sam Hoyt  
P.O. Box 855  
Buffalo, NY 14205

**RE: CMP04-39**

Dear Assemblyman Hoyt:

The New York State Board of Elections (the Board) is in receipt of your August 11, 2008, faxed letter requesting copies of correspondence regarding your 2004 complaint. Attached please find copies of:

- your faxed request for copies;
- the September 7, 2004, complaint;
- the September 10, 2004, Board complaint acknowledgment;
- a October 7, 2004, letter from your office providing additional detail of the complaint;
- a July 26, 2005, inquiry letter from your office;
- the January 13, 2006, Board determination; and
- a February 23, 2006, letter from your office regarding the decision.

Very truly yours,

Cheryl Couser  
Enforcement Specialist

Encs.



## Citizens for Sam Hoyt

P.O. Box 855, Buffalo, NY 14205

www.samhoyt.com • votehoyt@samhoyt.com



Liz Hogan  
Enforcement  
New York State Board of Elections  
40 STEUBEN STREET  
ALBANY, NY 12207-2108

August 11, 2008

Dear Ms. Hogan: 2

In 2004, I was challenged in the Democratic primary for state Assembly by Joseph Golombek. During the campaign hundreds of thousands of dollars were spent attacking me in an unattributed and unaccounted for mail campaign. After winning reelection, I initiated a complaint with your agency. After several months of investigation, the State Board of Elections agreed with my assessment and wrote a letter of rebuke to Mr. Golombek.

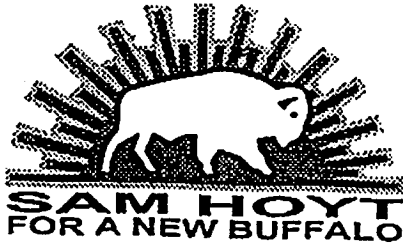
I would greatly appreciate a copy of all correspondence relating to this matter, including my original letter to the Board of Elections and all correspondence the Board generated as a result of the investigation including dates that the correspondence was sent.

Thank you for your anticipated cooperation.

Sincerely,

A handwritten signature in black ink, appearing to be "Sam Hoyt", written over a printed name "Sam Hoyt".

Sam Hoyt



## Citizens for Sam Hoyt

255 Delaware Avenue, Buffalo, NY 14202

Phone: (716) 853-4698 Fax: (716) 853-5640

www.samhoyt.com \* votehoyt@msn.com

September 7, 2004

NYS Board of Elections  
40 Steuben Place  
Albany, NY 12207-2108

To Whom It May Concern:

I write to ask that the campaign of Joseph Golombek for State Assembly, and the "Renew New York" political action committee be investigated for possibly violating campaign finance and election law. "Renew New York" was created as a PAC outside the Golombek campaign but with the purpose of financing his attack literature. The literature pieces bear the legend, "Paid for and authorized by Renew New York, Pat Ruffino—Treasurer" and "Not authorized or approved by any candidate or candidate's committee." These claims are not credible. Moreover no financial filings for this group appear on the State Board of Elections web site.

Erie County Executive Joel Giambra announced last week the creation of the Renew New York PAC with the purpose of backing Golombek's candidacy. Mr. Golombek has denied any coordination with the PAC. This denial is not believable. Literature from both campaigns employ some of the same photographs. The timing and message of the pieces are clearly also coordinated. Since County Executive Giambra is a Republican interfering in a Democratic Primary, what is probably going on here is an attempt by Mr. Giambra and Mr. Golombek to hide from the public the names of Mr. Golombek's true financial backers prior to the September 14<sup>th</sup> primary.

Mr. Giambra and Mr. Golombek are most likely breaking the law. I urge prompt attention to this matter.

Sincerely,

SAM HOYT  
MEMBER OF ASSEMBLY



State of New York  
**STATE BOARD OF ELECTIONS**

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Peter S. Kosinski  
Deputy Executive Director  
Stanley L. Zalen  
Enforcement Counsel  
William J. McCann Jr.  
Special Deputy Counsel

September 10, 2004

Hon. Sam Hoyt  
Member of Assembly  
225 Delaware Avenue  
Buffalo, NY 14202

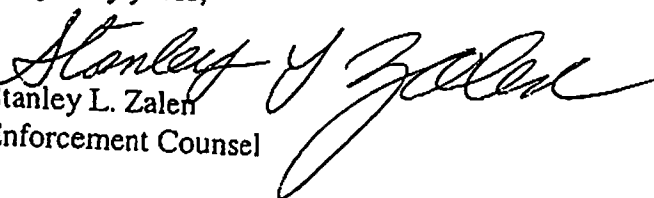
Re: CMP04-39

Dear Assemblyman Hoyt:

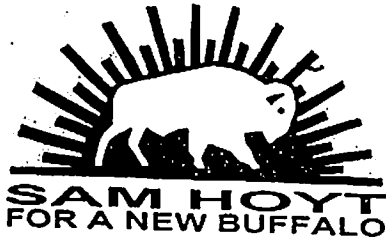
The New York State Board of Elections has received your September 10, 2004, complaint and has referred it to me for review.

The Board requires some evidence to support the allegation of wrongdoing. Kindly submit copies or originals of the literature in question. In addition, if you have a phone number and address for Pat Ruffino, kindly submit that as well.

Very truly yours,

  
Stanley L. Zalen  
Enforcement Counsel

SLZ/dch  
Enc.



## Citizens for Sam Hoyt

255 Delaware Avenue, Buffalo, NY 14202  
Phone: (716) 853-4698 Fax: (716) 853-5640  
www.samhoyt.com • votehoyt@msn.com

October 7, 2004

Mr. Stanely L. Zalen,  
Enforcement Counsel  
New York State Board of Elections  
40 Steuben Street  
Albany, New York 12207

RE: CMP04-39

Dear Mr. Zalen:

Please find copies of the literature requested in your letter of September 10, 2004. Please also accept the present amplification of my complaint filed on September 7, 2004.

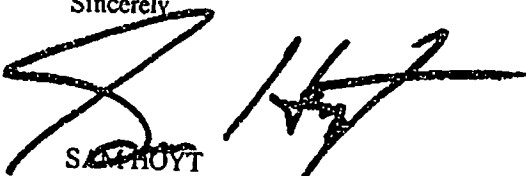
The support provided to Assembly Candidate Joe Golombek by "Renew New York" constituted an illegal contribution by virtue of being coordinated, given that the value of mailings done for Mr. Golombek were worth more than \$3,400.00. The evidence of coordination was plainly set forth in my prior letter.

In addition to the issues raised in my prior letter, please accept the following amplification of my complaint. Renew New York has violated New York's Election Law by claiming to be a PAC, which definitionally is limited to making contributions and may not directly engage in independent expenditures. See Form CF-2 filed in your office, received on August 19, 2004. As you know this distinction is critical, as PACs have an unlimited contribution limit (in), but are constrained by contribution limits of recipient committees to which the PAC contributes. In this case, instead of making a legal \$3,400 contribution to Mr. Golombek, Renew New York illegally dumped tens of thousands of dollars in direct aid to Mr. Golombek. As such, Renew New York has behaved as a committee supporting a candidate - and whether authorized or unauthorized that means it is subject to the contribution limits (in) applicable to the appropriate office(s) of the candidates supported. However, in contravention of section 14-114 of the Election Law, Renew New York received contributions from Joel Giambra and others exceeding the \$3,400 applicable to an Assembly primary and spent more than such amount on such primary.

The patently illegal behavior of Renew New York must be stopped, and obviously evidences an illegal conspiracy to evade the restrictions imposed by law, involving persons who are not political novices. Accordingly, we request that you immediately investigate and confirm these violations, enjoin the illegal behavior, assess the appropriate civil penalties and refer this matter for criminal prosecution.

In addition to serving as an amplification of my complaint, a copy of this letter will be forwarded to Mr. Patrick Ruffino at 148 Lowell, Kenmore, New York 14217 and shall serve to put Mr. Ruffino on notice of the continuing violations, which would make any continued violations hereafter all-the-more plainly willful and thus criminal.

Sincerely



SAM HOYT

RECEIVED

OCT 15 2004

STATE BOARD OF ELECTIONS



## Citizens for Sam Hoyt

255 Delaware Avenue, Buffalo, NY 14202  
Phone: (716) 853-4698 Fax: (716) 853-5640  
www.samhoyt.com • votehoyt@msn.com

July 26, 2005

Mr. Peter Kosinski  
Deputy Executive Director  
New York State Board of Elections  
40 Steuben Street  
Albany, New York 12207

Dear Mr. Kosinski:

On October 7, 2004, I sent the enclosed letter to the New York State Board of Elections requesting an investigation into what I believe to be questionable campaign activities involving support my opponent, Assembly Candidate Joe Golombek, received from "Renew New York."

As it has been over 9 months since I have filed this complaint, I would appreciate hearing from you as to the status of the investigation.

In addition, I would appreciate it if you would contact me at (716) 853-4698 in advance of this item being put on the agenda when the Board meets to consider it.

Sincerely,

Sam Hoyt  
Member of the Assembly

cc: Mr. Stanley L. Zalen,  
Enforcement Counsel



-----x  
In the Matter of the Complaint  
Against Golombek  
-----x

DETERMINATION  
CMP04-39

WHEREAS, the New York State Board of Elections (Board) received this complaint on September 10, 2004, followed by a second letter on October 7, 2004, and

WHEREAS, the complaint concerned Renew NYS, originally a political action committee which then amended its registration to become a multi-candidate committee, and

WHEREAS, the complaint includes allegations that as a PAC, Renew NYS was directly expending money on behalf of two Assembly Candidates and further alleging that the Committee received excessive contributions to support those candidates, and

WHEREAS, the Board has reviewed the complaint and the supporting materials contained therewith, and

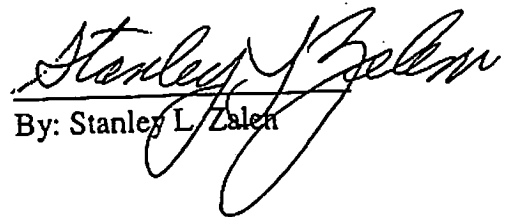
WHEREAS, a review of the records of the Board reflects that the treasurer of Renew NYS has discussed the Election Law with a staff member of the Board's Campaign Finance Unit concerning the distinctions between PAC's and multi-candidate committees, and

WHEREAS, following these discussions, Renew NYS converted itself into a multi-candidate committee and refunded portions of contributions it had received to bring those contributions within the limits of the candidates being supported, and

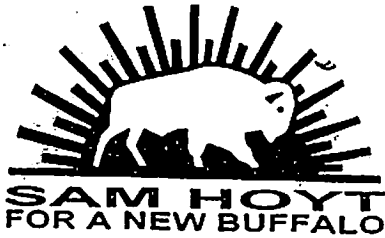
WHEREAS, based upon the foregoing, there is not substantial reason to investigate,

NOW, THEREFORE, the matter is closed.

NEW YORK STATE  
BOARD OF ELECTIONS

  
By: Stanley L. Zelen

DATED: January 13, 2006



## Citizens for Sam Hoyt

255 Delaware Avenue, Buffalo, NY 14202  
Phone: (716) 853-4698 Fax: (716) 853-5640  
www.samhoyt.com • votehoyt@msn.com

February 23, 2006

Stanley Zalen  
NYS Board of Elections  
40 Steuben Street  
Albany, NY 12207

Dear Mr. Zalen *Stanley*

I write to express my great disappointment in the board's recent decision regarding your investigation into the illegal actions of the Renew NY PAC.

As you know, it was my allegation that County Executive Joel Giambra's funding of my opponent Joe Golombek's campaign violated campaign finance law. The fact that your board's actions resulted in this PAC reforming itself as a multi-candidate committee and refunding contributions verifies that my assertions were accurate. What's amazing to me is that the board chose to allow Mr. Giambra and Renew NY to simply re-form and refund illegal contributions without any punitive action whatsoever.

Simply forcing him to return these contributions months after the election is over not only gives tacit approval to his actions, but makes irrelevant the very campaign finance rules he violated. It's a little like making a horse thief simply return a stolen horse after winning the Kentucky Derby with it. The message to future candidates is: don't worry about breaking campaign finance law during the campaign - you'll have more than enough time to make up the money after the fact without any worry about penalties. Why even bother to have campaign finance regulations if they are not going to be enforced?

As a candidate who supports clean elections and upholding the law I am disturbed by and disappointed in this decision. If candidates are allowed to simply skirt the rules and the Board of Elections looks the other way so long as the violation is corrected, then the real victims are not honest candidates who raise money in accordance with the law, but the voting public who deserves clean elections.

Sincerely,



SAM HOYT  
MEMBER OF ASSEMBLY

SH:sjm  
cc: BOE Commissioners

**PIGEON HAD BECOME AN ALBATROSS**

**BOB MCCARTHY**

10 October 2004

Buffalo News

H3

In the midst of national politics at its most intense, the 2005 contest for mayor of Buffalo has some early intensity of its own.

When State Sen. Byron W. Brown called top aide Steve Pigeon into his office a few days ago and unceremoniously fired him, it marked the most important development yet in the crucial mayoral election looming on our horizon.

"I try to have people on staff who focus on public policy and good government," Brown explained later. "I did not feel he was able to focus enough time and attention on my constituency and policy."

It was an interesting statement from the senator, who since Primary Day is focused more openly than ever on the big office on City Hall's second floor. After all, Brown paid Pigeon as much as \$74,000 to conduct the kind of politics he suddenly found so distasteful.

Just two weeks earlier, for example, Pigeon masterminded a major offensive against Assemblyman Sam Hoyt by encouraging the primary challenge of North Council Member Joe Golombek. The former Erie County Democratic chairman directed much of Brown's staff in collecting signatures and making the Golombek candidacy real, while enlisting the aid of his new best political friend -- Republican County Executive Joel Giambra.

Through the aid of Giambra's new political action committee, Pigeon mounted an offensive that forced Hoyt to spend more money on an Assembly primary than he ever planned. The final tally showed the assemblyman not exactly riding a juggernaut in his own efforts to become mayor next year -- just what Pigeon designed.

"It's ironic that it was OK for me to do that just a few weeks ago," said Pigeon.

All of this is important because it involves much more than an obscure staffer for a minority state senator. Internal polls showed Pigeon is one of the most recognizable names in local politics -- an institution at only 44.

But that recognition was causing Brown problems, and the senator knew it. Sources say those same polls showed people didn't like him. Pigeon was also persona non grata among the state's Democratic hierarchy, especially after an ugly confrontation with Assembly Speaker Shelly Silver this summer during the Buffalo wedding of Assemblyman Clarence Norman, the Brooklyn Democratic chairman.

Business leaders are interested in Brown, several sources said, but will not support him with Pigeon in the picture. Union powers told him the same thing: And as far as Democratic Headquarters was concerned, Chairman Len Lenihan would never smile on a Brown candidacy as long as Pigeon remained in the roost.

When Brown weighed all the competing forces at a crucial juncture in his career, he did what he had to do. He dropped his albatross. The idea that Pigeon would ever resurrect himself as Democratic chairman is now over, and an array of political possibilities lies before Brown.

Now, he must be taken more seriously as a mayoral candidate than ever before.

Another item from the campaign trail:

Not only was Sen. Hillary Rodham Clinton slated to campaign for Democratic congressional candidate Brian Higgins in Buffalo on Saturday, she also hosted a major fund-raising event for him at her Washington home on Monday.

Higgins might need all the help he can get in his contest against Republican Nancy Naples. One top Democratic strategist roaming the Cleveland vice presidential debate on Tuesday acknowledged there is deep concern over what should be an easy hash mark in the Democratic column.

"She's popular there, and having those ads pulled really hurt him," the strategist said.

Three Buffalo television stations a few days ago pulled anti-Naples ads sponsored by the Democratic Congressional Campaign Committee -- a rarity in the world of television advertising.

The source indicated that while the stations were afraid of being sued, the irony is sweet.

"Nobody ever sues," he said.



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Sunday, August 24, 2008



**Capitol confidential**

The Capitol. The seat of state government. Where influential politicians craft laws and crafty lobbyists peddle influence. Where hopeful citizens try to get their voices heard. Get a look behind the scenes at New York politics and statewide campaigns here.  
[Join the dysfunction.](#)



**Golisano announces \$5 million to PAC (Updated)**

July 8, 2008 at 12:10 pm by Irene Jay Liu

Billionaire and former gubernatorial candidate Tom Golisano announced that he will contribute \$5 million to a PAC, called "Responsible New York", that will support candidates who are "consistent" with an 8-point platform. He even held up a check for the \$5 million that he said will be deposited tomorrow. He also said the paperwork for the PAC will be sent today to the state Board of Elections.

Golisano spent the first part of the news conference lamenting the issues he felt were problems in New York. And at one point asked, "Don't we have any pride left in this place? We act like we don't."

More on the platform below, but first a few other highlights:

- Golisano didn't rule out another gubernatorial run: "I think about it every day. But not now."
- He's spoken with Kathy Konst, "Baby Joe" Mesi, and Rick Dollinger - all Democratic challengers to Republican incumbent senators - but he emphasized that no decisions have been made about endorsements. He wouldn't say that he wanted to see the Republican Senate majority overturned. He dismissed earlier reports about endorsements, "Let's write that off to media over enthusiasm."
- He said he would be supporting Democrats, Republicans, independents, Independence candidates, anyone who would follow the platform."It depends on who they are and what their philosophy is."
- He hasn't spoken with either Sheldon Silver's primary challengers, Luke Henry and Paul Newell, but he was heavily critical about the power that leadership has over individual legislators.
- He maintains that his project is entirely legal, and his spokesman Steve Pigeon said he doesn't anticipate any legal challenges. However, there are nuances of his proposed PAC that don't coincide with the Board of Elections rules.
- Golisano maintains that the work that is being done by the PAC will be entirely independent of the campaigns. The PAC will be sending out questionnaires to all candidates and based on their responses, and possibly interviews, the PAC will decide whether to work to support them. Golisano said that all of these activities would jive with election law, but how exactly that reconciles with the election law against coordination isn't yet clear.

The 8-point platform:

- Responsible budgets (budget increases limited to the rate of inflation)
- End to unfunded mandates
- Property tax reform
- Campaign and election reform (including redistricting reform)
- Government employee compensation commiserate (sic) with private sector
- Equitable distribution of economic development resources statewide
- Government transparency
- End back door borrowing

The PAC will be co-chaired by Lauren Oliver, former State Chair of the New York Independence Party and Steve Pigeon, former Erie County Democratic Chairman.

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TIMES UNION CONFIDENTIAL

Capitol Confidential	00:53
Palmer's "Governor" Response	00:39
Gov. David Palmer's Message	03:14
Rockefeller At 100	03:35
Palmer Campaign Ad 1	00:39

ABOUT US

[Irene Jay Liu](#)

## Tensions high between Gov. Paterson and state senate Democrats

Sunday, July 20th 2008, 10:11 PM

Tensions are mounting between Gov. Paterson and the Senate Democrats he once led as relations with his onetime friend and ally, Senate Minority Leader Malcolm Smith, hit a new low, insiders say.

Frustrated lawmakers are complaining about everything from lack of access to Paterson to his failure to help them with fund-raising at a time when they are within two seats of wresting control of the Senate from the Republicans.

"They haven't done anything for us; all we get is talk," said one frustrated lawmaker who has been trying to get a sitdown with the governor since his March 17 swearing-in.

A source close to Smith, who succeeded Paterson as minority leader in 2006 when he departed to become Eliot Spitzer's lieutenant governor, said Paterson and Smith have always had a "complex" relationship.

Things between Paterson and the Queens Democrat have deteriorated, though, since the governor's ascension, the source said.

"Malcolm has not done everything David wanted him to do as minority leader; he wanted to control the conference," the source said. "There's friction there. It has been there a long time."

Smith and his fellow Senate Dems were stunned last month when Paterson all but accused a freshman member - upstate Sen. Darrel Aubertine - of lying about being offered a top job in the administration, only to later admit one of his aides might have indeed broached the subject.

Lawmakers were also angry when they weren't invited by Paterson to participate in key announcements, including one on a deal to address the mortgage crisis, a top priority of the Senate minority for more than a year.

The real breaking point came last week when Paterson announced he had raised an eye-popping \$3.3 million for his own campaign committee in less than two months.

The new governor not only failed to contribute anything to the Senate Democrats, but had actively avoided their fund-raising events in an effort to distance himself from Spitzer's now-infamous "steamroller" approach in dealing with the Legislature.

"You raise us \$3 million like Eliot and feel like criticizing everything we do, we're more open to it," said the source close to Smith. "You're much more careful about biting the hand that feeds you. Right now, we don't have that problem."

Paterson's approach has sparked speculation he has reinstated a nonaggression pact with the Senate Republicans. The theory is he's decided it's more useful to maintain the status quo balance of power so he can use the GOP majority as a foil going forward.

A source close to Paterson insisted the governor is "committed" to helping his party gain control of the Senate and called his fellow Democrats' complaints "misplaced."

"Their attention would be better directed at shoring up and strengthening fund-raising activities in the conference," the source told the Daily News.

As of July 15, the Senate Democrats had \$1.5 million on hand, compared with the Senate Republicans' \$5.9 million.

The son of a top Paterson administration official is helping billionaire Tom Golisano with his self-funded \$5 million effort to back "reform-minded" legislative candidates this fall.

Jack O'Donnell, a Buffalo Democratic operative and son of state Criminal Justice Services Commissioner Denise O'Donnell, confirmed he is "helping out a little" with Golisano's Responsible New York committee. O'Donnell said he has no official position with the committee, but didn't rule one out in the future.

O'Donnell ran his mother's unsuccessful 2006 campaign for state attorney general. He said he has a particular affinity for Golisano because of his financial support for Rochester's Strong Memorial Hospital, where O'Donnell had an emergency liver transplant last year.

[ebenjamin@nydailynews.com](mailto:ebenjamin@nydailynews.com)



STATE OF NEW YORK  
STATE BOARD OF ELECTIONS  
COMMITTEE DESIGNATION OF TREASURER AND DEPOSITORY  
Section 14-118 of the Election Law  
(See instructions on reverse side)

(E)

**THIS FORM MUST CONTAIN ORIGINAL SIGNATURES AND BE COMPLETED IN FULL**

New Registration  For State Campaign   
Amended Registration  For Local Campaign  Filer ID# (To be assigned) 138428

A. NAME OF COMMITTEE: Friends of Barbra Kavanaugh  
B. COMMITTEE TYPE: (see reverse) 1- Authorized single candidate cinte

C. TREASURER:  
Full Name Jeffrey A. Tooke  
Res. Address 2 Union Place  
Buffalo, NY Zip 14213  
(Voluntary) Soc. Sec. # 07615612145 E-mail Address jeffreytooke@gmail.com  
Mailing Address \_\_\_\_\_  
(Different) \_\_\_\_\_  
Zip \_\_\_\_\_

**RECEIVED**  
JUN 30 2008  
STATE BOARD OF ELECTIONS

D. DEPOSITORY:  
Res. Tel. No. (716) 884-2049 Bus./Alternate Tel. No. (716) 912-8557  
Name of Bank M+T Bank  
Address One Fountain Plaza, Buffalo NY 14203

E. CANDIDATE(S) TO BE SUPPORTED OR OPPOSED: (Attach additional sheets if necessary)

ELECTION YEAR	OFFICE/DISTRICT	FIRST/MIDDLE INITIAL/ LAST NAME OF CANDIDATE	SUPPORT/OPOSE
1. <u>2008</u>	<u>NYS Assembly-144AD</u>	<u>Barbra A. Kavanaugh</u>	<u>Support</u>
2. _____	_____	_____	_____
3. _____	_____	_____	_____

F. BALLOT ISSUE(S) TO BE SUPPORTED OR OPPOSED: (Attach additional sheets if necessary)

1. \_\_\_\_\_ SUPPORT/OPOSE \_\_\_\_\_  
2. \_\_\_\_\_ SUPPORT/OPOSE \_\_\_\_\_

G. PERSON(S) OTHER THAN TREASURER AUTHORIZED TO SIGN CHECKS:  
(Attach additional pages if necessary.)

Full Name 1. John O'Donnell 2. \_\_\_\_\_  
Res. Address 125 Edward St. 3L \_\_\_\_\_  
Buffalo NY Zip 14201 \_\_\_\_\_  
Signature [Signature] \_\_\_\_\_ Zip \_\_\_\_\_

H. \_\_\_\_\_  
The above information is true to the best of my knowledge and belief

6/20/2008 Date  
[Signature] Treasurer's Signature (must be original in blue or blue ink.)



Contact: Chris Christopher  
Telephone Number: (716) 472-0384  
Email Address: iannelloforsenate@yahoo.com

For Immediate Release – August 6, 2008

**Iannello Files Complaint Against Mesi**

Iannello calls on Mesi to let the voters know where he stands

(Buffalo, N.Y.) Michele M. Iannello, Democratic candidate for the 61<sup>st</sup> State Senate District, filed a complaint against the campaign of Joseph Mesi and Tom Golisano's Responsible New York. In papers mailed to the New York State Board of Elections, the New York State Attorney General and the Albany County District Attorney, Iannello laid out the extensive connections and coordination between Mesi and Responsible New York, focused mainly around Steve Pigeon.

Pigeon, who has been a major advisor to Mesi since his campaign began earlier this year and has been authorized to sign checks for the committee, is now the co-chair of Responsible New York. Responsible New York has indicated that it intends to spend up to \$1 million dollars on Mesi's behalf. New York State Election Law prohibits the coordination by candidates and independent committees if they intend to spend more than the contribution limits. In the State Senate primary the contribution limit is \$6,000.

"I'm not a lawyer, but the law is clear - you can't spend more than the \$6,000 on behalf of a candidate if you are coordinating with them - period. It is clear that there has been extensive coordination between Mr. Mesi and a committee that wants to spend \$1 million on his behalf," stated Iannello.

Iannello continued by challenging Mesi to tell the voters where he stands on the issue. Since the announcement of Responsible New York, Mesi has refused to appear before press and state his position. Mesi has only released brief press statements on the matter, never addressing the real issue.

"Mr. Mesi needs to look the voters in the eye and tell them whether or not he is going to allow the law to be broken to help him try to win the election. We can't afford any more politics as usual in Albany. Politicians hiding behind "lawyer-speak" to try and justify shady actions is exactly what the voters are sick of," continued Iannello.

Iannello is in her second term in the Erie County Legislature. Before entering public service, she was a real estate paralegal and small business owner. The 61<sup>st</sup> State Senate district is made up of the Towns of Amherst, Clarence, Newstead, Tonawanda, and part of the City of Tonawanda in Erie County and all of Genesee County. The incumbent, Senator Mary Lou Rath has decided to retire at the end of her term.

###



**Michele Iannello for State Senate**

*A Proven Record of Change*

August 5, 2008

New York State Board of Elections  
Campaign Finance Investigations Unit  
40 Steuben Street  
Albany, NY 12207-2108

The Honorable Andrew M. Cuomo  
New York State Attorney General  
The Capitol  
Albany, NY 12224-0341

The Honorable P. David Soares  
Office of the District Attorney  
Albany County Judicial Building  
6 Lodge Street  
Albany, NY 12207

Re: Creation of "Responsible New York"  
Political Committee and Possible Election  
Campaign Finance Law Violations

Gentleman/Mesdames:

Today, I am formally requesting that each or all of your offices immediately begin an investigation into the formation of "Responsible New York", recently announced by Mr. B. Thomas Golisano with its stated intention to "support" the candidacy of Joseph Mesi in the 61<sup>st</sup> State Senate District Democratic Primary.

As you are all well aware, Election Law, Section 14-114, together with Section 6214.0 of the Rules and Regulations of the New York State Board of Elections, restrict an individual's contribution to a candidate in a State Senate primary election to \$6,000 and to \$9,500 in the general election.

It is my belief that the announced, intended plan of the political committee Responsible New York, to expend sums of money on various candidates' behalf, which are far in excess of the amount provided for by New York's Election Law, would be a clear violation of the New York State campaign finance law contribution limits.

Specifically, I point to the announced plans for the expenditure of a million dollars on behalf of Joseph Mesi, my opponent in the 61<sup>st</sup> State Senate District Democratic Primary Election.

From the enclosed documentation, it is quite clear that Mr. Mesi's entire campaign since April 2008 has been associated with and coordinated by political associates who are now part of "Responsible New York". It should be noted that the Responsible New York committee has two of those long time associates of Mr. Golisano in prominent roles - Mr. G. Steven Pigeon as its co-chair and Mr. Gary Parenti as its treasurer.

The connection of Mr. Pigeon to the candidacy of Mr. Mesi is unquestioned. Since Mr. Mesi's announcement of his candidacy in early April 2008 through the announcement of Mr. Golisano's plans for his "political committee" on July 8, 2008, Mr. Pigeon and Mr. Parenti have been involved in all facets of Mr. Mesi's campaign. (See the attached Appendix with documentation of some of the coordination in the public record).

It does not appear that such involvement is actually being denied by Mr. Pigeon or Mr. Mesi. For example, in a news report from Buffalo television station WKBW Channel 7 (on July 15, 2008) Mr. Pigeon outlined his position that it is not what occurred in the past - but what happens in the future, that would be the measure of "coordination" between a candidate and an alleged "unauthorized" fund.

Likewise, when questioned specifically about whether he would be accepting such funds from Mr. Golisano's "committee", Mr. Mesi's statement was:

"I'd be proud to have his support, but I'm not seeking it out and I have not been in contact with him since he announced his independent committee. (emphasis added)." (WGRZ Channel 2 News - Saturday 7/19).

Such brazen conduct in the face of obvious coordination between and among the major players, exhibits an intention by Mr. Mesi to knowingly and willfully violate the limits on accepting contributions from an individual - here Mr. Golisano - and to misuse the "unauthorized committee" exception to the contribution limits.

I need not tell you that of all the criminal penalties provided for in Article 14 of the Election Law, the highest category - an E Felony - is provided for those who would violate the contribution limits by the misuse of the "unauthorized committee" exception.

It is inconceivable that individuals (Mr. Pigeon and Mr. Parenti) can plan, participate, promote and assist a candidacy (here of Mr. Mesi) for months - then (supposedly) cease such coordination immediately upon the creation of a huge, supposedly "unauthorized committee", and then claim that there is no coordination since the creation of the "unauthorized committee" with just weeks left before the election - thus allowing unlimited spending on the candidate's behalf.

Certainly, any such coordination within the candidacy's "election cycle" is contemplated by the statute. Anything less would render its wording meaningless. It is simply not believable that the creation of a \$5 million "political fund" announced on July 8, 2008 and leaked to the press in late June, was not being "planned" during the same period that the same individuals were actively involved in the Mesi campaign. Such overlap of "coordination" deserves your immediate attention and investigation.

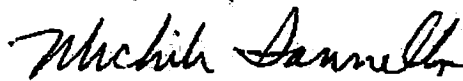
In summary, the limits on contributions to a candidate's campaign are meant to prevent any one person or entity from exercising too much influence over potential elected officials. That is why the restrictions on so called "unauthorized expenditures" are very specific. The planned use of upwards of \$1 million dollars on behalf of a single candidate (Mr. Mesi) where the legal limit is \$6,000 (for the primary), is a blatant violation of the contribution limits, which needs no explanation.

The attempt by the Mesi campaign and Responsible New York to portray a supposed lack of coordination and cooperation only after the announcement of the committee's creation, as the measure of compliance with the law, is a sham and a fraud on the voters of the 61<sup>st</sup> Senate District.

The consequences of allowing such unlimited campaign expenditures – clearly in violation of the New York State Election Law limits – are dire. If these actions, clearly prohibited by law, are not immediately halted, the entire election system in New York State will become the playground for a very few rich individuals and special interests, with elected officials beholden to such "contributors". If that is permitted, New York State will then truly have the best state legislature that money can buy.

I appreciate your attention to the matter and thank you in advance for your work.

Very Truly Yours,



Michele M. Iannello, Candidate

61<sup>st</sup> State Senate District

Below are set out the undeniable links showing coordination and cooperation between candidate Joe Mesi and his authorized committee "Friends of Joe Mesi" and the unauthorized multicandidate committee "Responsible New York" – showing that "Responsible New York" fails to meet with standards of "unauthorized expenditure" as defined in New York State Election Law 14-100(9).

1. Upon the formation of "Friends of Joe Mesi" [FJM], the authorized committee of candidate Joe Mesi [Mesi], on April 4<sup>th</sup> 2008, G. Steven Pigeon [Pigeon] was authorized to sign checks for FJM. See Exhibit 1.

2. Two Political Action Committees, controlled by Pigeon, Citizens for Fiscal Integrity [CFI] (see exhibit 2) and People for Accountable Government [PAG] (see exhibit 3), contributed money to FJM. PAG contributed \$2,000 April 14<sup>th</sup> 2008 and \$1,000 on June 18<sup>th</sup> 2008, CFI contributed \$1,000 on July 7<sup>th</sup> and \$2,000 on July 11<sup>th</sup>.

3. On June 30<sup>th</sup> 2008, The Capitol published an article revealing that B. Thomas Golisano [Golisano] had plans to form a "527" to spend up to \$1 million on behalf of Mesi and that Pigeon was expected to play a major role in the "PAC". See Exhibit 5.

4. On July 8<sup>th</sup> Golisano officially formed his "Responsible New York" [RNY] (see exhibit 6) and announced at a press conference that Pigeon would be a co-chair of RNY. See Exhibit 7.

5. In Exhibit 7 Golisano admits to having met with Mesi.

6. Exhibit 7 also shows Pigeon claiming to have cut off ties with Mesi and FJM prior to the project.

7. On July 14<sup>th</sup> in The Capitol Pigeon sets forth the argument that he will have no role in any decisions involving Mesi and FJM. See exhibit 8.

8. On July 15<sup>th</sup>, Pigeon argues that the only coordination that matters is going forward from this point on. See exhibit 9.

9. Exhibit 1 shows obvious coordination between Pigeon, Mesi and FJM, up until at least July 10<sup>th</sup>, when the State Board of Elections officially recognized the amended CF-02 of FJM. See exhibit 10.

10. Exhibit 2 also shows that planning for RNY, with Mesi as a planned beneficiary, began while Pigeon was still an authorized check signer for FJM. Even after Pigeon was no longer an authorized check signer of FJM, and claimed coordination ended per exhibit 7, exhibit 4 shows CFI a PAC, thus an authorized committee, controlled by Pigeon, contributing \$2,000 to FJM on July 11<sup>th</sup> 2008.

11. Besides, Pigeon, Treasurer of RNY, Gary Parenti (see exhibit 6) was also involved with Mesi and FJM. On June 24<sup>th</sup> 2008, Parenti carried Democratic Party designating petitions for Mesi. See Exhibit 11.

12. Also, Jack O'Donnell, who appeared with Mesi at numerous events, including before the Erie County Democratic Executive Committee where he identified himself as a staff member, has confirmed his role in RNY. See Exhibit 12.

13. As outlined in Section 14-100.9 of the Election Law, to avoid the normal contribution limits an authorized committee must be independent of a campaign meaning: "the candidate or his agents or authorized committees did not authorize, request, suggest, foster or cooperate in any such activity". No reasonable observer can claim that FJM is independent of RNY. Any such attempt to spend money on behalf of FJM by RNY could subject candidate Mesi and all involved to the civil and/or criminal penalties of Section 14-126.4, which says:

Any person who shall, acting on behalf of a candidate or a political committee knowingly and willfully solicit, organize or coordinate the formation of activities of one or more unauthorized committees, make expenditures in connection with the nomination for election or election of any candidate, or solicit any person to make any such expenditures, for the purpose of evading the contribution limitations of this article, shall be guilty of a class E felony.

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## Those Golisano Seeks to Oust Gird for Attack

Ianello mounts legal challenge, Volker calls in chits, Hoyt seeks questionnaire

John Celock

Mon, 14 Jul 2008 13:46:00

Tom Golisano has already made a personal contribution of \$3,800, the maximum allowed in a primary, to former Buffalo Council Member Barbra Kavanaugh (D) in her challenge to Sam Hoyt. A source close to the billionaire hinted that this is a sign that Golisano will use his Responsible New York committee to back Kavanaugh.

Hoyt, who has long harbored ambitions to be Buffalo mayor, has been feuding with Buffalo Mayor Byron Brown (D) for several years. Brown is said to be behind the Kavanaugh campaign and the mayor is close to Golisano confidant Steve Pigeon, who is co-chairing the new committee. Kavanaugh denied that Brown asked her to challenge Hoyt and said that she does not think of her campaign as a challenge to Hoyt.

Hoyt said that he is taking the Kavanaugh threat seriously, especially given Golisano's involvement, and will accelerate his fundraising. Hoyt even said that while signs point to Golisano backing Kavanaugh, he will seek the billionaire's support.

"On paper my record warrants strong support from Tom Golisano," Hoyt said. "If this is truly on the merits I am the kind of person he should support. But this may not be on the merits."

With Golisano likely to support Erie County Legislator Kathy Konst (D) in her bid to unseat longtime Sen. Dale Volker (R-Erie), Volker is publicly remaining calm about his chances. But in private, a source close to Volker said the senator is calling in chits amassed during his long career to fend off the challenge.

The source said that Volker will likely concentrate his campaign in the rural parts of the district in Wyoming, Livingston and Ontario Counties, Republican strongholds where Konst is unknown. Konst is well known in Erie County, which comprises a large part of the district, from her work as a maverick in county government.

"He has put in a lot of time and he has a lot of friends," the source said.

In addition to the Konst challenge, Volker has to face former East Aurora Mayor David DiPietro in the primary, a challenge being backed by powerful Buffalo developer Carl Palladino.

Konst is also considered strong based on her two victories in a Republican heavy county district. Her 2005 victory over a one term incumbent was considered a fluke based on the reform wave that swept Erie County that year. Konst's independence has not won her many friends among county Democrats and many did not rally to her side in her tough 2007 reelection campaign, where she had to create a



second ballot line to go with the Democratic nomination.

"She was left there to die," a Democratic insider said of the party's attitude towards Konst last year. The party did not recruit Konst into the Senate race and she made her decision separately from the county party, which is backing former judicial candidate Tim Pawarski against Volker.

The Golisano camp said that Konst's now famous meeting with Golisano several weeks ago helped the billionaire decide to create the campaign committee. The source said that the meeting, which has been described as centering on political philosophies and not campaign strategy, helped convince Golisano there would be likeminded Senate candidates to endorse. Prior to the meeting, Konst had been running for Congress.

Legal challenges are also being considered to Golisano. In the race to succeed retiring State Sen. Mary Lou Rath (R-Erie), Golisano will be backing retired boxer Joe Mesi (D). Erie County Legislator Michele Ianello (D), who is challenging Mesi in the primary, held a press conference last week to call for Mesi to reject Golisano's backing and suggested that Attorney General Andrew Cuomo and Albany County District Attorney David Soares should investigate the relationship between Pigeon, Mesi and Golisano. Pigeon is a close friend of Mesi's and Ianello said the relationship could suggest illegal coordination between the campaign and Golisano.

Ianello is married to Erie County Democratic Elections Commissioner Dennis Ward, who is also one of the top election attorneys in Western New York.

Election attorney Henry Berger, who is advising Golisano, said that the billionaire has not violated any laws and that Pigeon will not be playing a role in any decisions relating to the Mesi campaign. Berger explained that decisions involving Mesi will be handled by former State Independence Party Chairwoman Lauren Oliver, who is also working with Golisano this year. Pigeon himself confirmed that he does not intend to advise Golisano on the Mesi campaign.

"I want to go beyond what the law requires," he said.

A source within the Ianello campaign said that she will consider civil remedies as well and is not coordinating her legal challenge with any other candidate statewide, including her brother-in-law, Amherst Council Member Dan Ward, who is also challenging Mesi.

Confident in the Golisano camp's standing, Berger welcomed the challenge.

"Bring it on," he said.

"K"

12-144

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A. NAME OF COMMITTEE: Friends of Barbra Kavanaugh

B. COMMITTEE TYPE: (see reverse) Authorized Committee

C. TREASURER: Full Name Jeffrey A. Tooke

Res. Address 2 Union Place

Buffalo NY Zip 14213

(Voluntary)  
Soc. Sec. #

E-mail Address jeffrey.tooke@gmail.com

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E. CANDIDATE(S) TO BE SUPPORTED OR OPPOSED: (Attach additional sheets if necessary)

ELECTION YEAR	OFFICE/DISTRICT	FIRST/MIDDLE INITIAL/ LAST NAME OF CANDIDATE	SUPPORT/OPPOSE
1. <u>2008</u>	<u>NY Assembly-144</u>	<u>Barbra A. Kavanaugh</u>	<u>Support</u>
2. _____	_____	_____	_____
3. _____	_____	_____	_____

F. BALLOT ISSUE(S) TO BE SUPPORTED OR OPPOSED: (Attach additional sheets if necessary)

1. _____	SUPPORT/OPPOSE
2. _____	_____

G. PERSON(S) OTHER THAN TREASURER AUTHORIZED TO SIGN CHECKS: (Attach additional pages if necessary.)

Full Name 1. Barbara W. Koberdanz 2. \_\_\_\_\_

Res. Address 50 Abbots Ford Place \_\_\_\_\_

Buffalo NY Zip 14213 \_\_\_\_\_

Signature Barbara W. Koberdanz \_\_\_\_\_

H. THE ABOVE INFORMATION IS TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF

Date 8/7/2008

Treasurer's Signature Jeffrey A. Tooke  
(must be original in blue or black ink.)

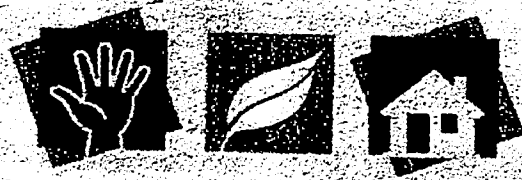
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THE BUFFALO NEWS

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## Hoyt asks four DAs to investigate campaign tactics of Golisano and Pigeon

By Phil Fairbanks NEWS STAFF REPORTER  
Updated: 09/11/08 10:14 AM

Assemblyman Sam Hoyt called for a criminal investigation Wednesday into the political activities of Rochester billionaire B. Thomas Golisano.

Hoyt campaign spokesman Jeremy C. Toth said he will ask four district attorneys from four counties to investigate Golisano and his chief political strategist, former Erie County Democratic Chairman G. Steven Pigeon.

"We're not going to let this go," Toth said. "Steve Pigeon is the scourge of Western New York politics, and if we don't stand up and stop this, he'll keep doing it."

At the heart of Hoyt's complaint is his contention that Golisano's new political action committee, Responsible New York, illegally coordinated its activities with the candidates it endorsed. They include Barbra A. Kavanaugh, whom Hoyt defeated in Tuesday's Democratic primary.

Golisano, who owns the Buffalo Sabres, could not be reached to comment Wednesday. Pigeon called Toth's allegations baseless. "We made sure there was no coordination," Pigeon said. "Knowing someone does not make it coordination."

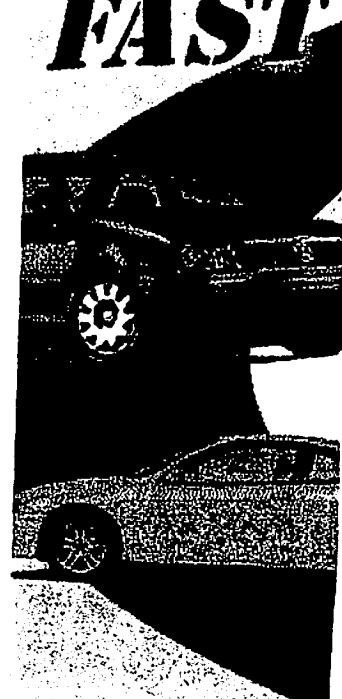
Just as he did during the campaign, Toth accused Responsible New York of violating state election law.

Toth said he believes that four upstate counties — Erie, Albany, Monroe and Genesee — have jurisdiction over his allegations that Pigeon, who manages the committee, worked hand in hand with candidates endorsed by Golisano's committee. Those candidates live in those four counties.

"I'm convinced there's a brave DA in one of those counties," Toth said.

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According to Toth, Golisano violated the law when Pigeon and others went directly from Kavanaugh's campaign to his committee.

Similar allegations have been made by Michele M. Iannello, an Erie County legislator and one of two Democrats who ran in a State Senate primary against another Golisano-backed candidate, Joe Mesi. Mesi won the Democratic nomination Tuesday.

Golisano has maintained from the start that his organization is truly independent and therefore can legally spend an unlimited amount of money on candidates. State election law waives the spending limits only if committees do not coordinate their campaigns with candidates.

Much of Golisano's spending came in the final week of the campaign. It included television and radio advertising, as well as direct mail. Toth estimates that the committee spent at least \$145,000 on Kavanaugh's behalf.

Hoyt said he also wants authorities to investigate the ties between Golisano's committee and a group called Mothers and Fathers Demanding Answers. The group launched a Web site and mailed out printed material criticizing Hoyt for an extramarital affair with an Albany legislative intern.

Kavanaugh, meanwhile, continues to distance herself from Golisano's effort.

"I said all the time, 'Don't do it,'" Kavanaugh said Tuesday night. "Actually, when the story first broke about Sam [and the intern], I was on two TV stations, a radio station and print, and I said to everybody, 'It's sad, it doesn't belong in politics, it does not belong in my campaign, and as soon as we stop talking about it, it's not news anymore.'"

Pigeon called the latest assault on Responsible New York the work of a "sore winner" and labeled Hoyt the "laughingstock of the state," a reference to lurid e-mails— posted on the Internet — between the married assemblyman and the young woman with whom he had the affair.

He also said he understands the law, while Hoyt and Toth do not.

"He doesn't understand the law," Pigeon said of Toth, "which is why he can't get a job in the legal profession."

News Political Reporter Robert J. McCarthy contributed to this report.

[pfairbanks@buffnews.com](mailto:pfairbanks@buffnews.com)

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