



**BY FAX & EMAIL**

June 4, 2015

Douglas A. Kellner, Co-Chair  
Peter Kosinski, Co-Chair  
Gregory Peterson, Commissioner  
Andrew Spano, Commissioner  
New York State Board of Elections  
40 Steuben Street  
Albany, NY 12207-2108

**Re: Examination of Limited Liability Companies' campaign contributions and disclosures**

Dear Commissioners Kellner, Kosinski, Peterson and Spano:

We hereby formally request that the state Board of Elections (the "Board") closely examine the campaign contribution practices of limited liability companies and professional service limited liability companies (collectively "LLCs") for conformity with the letter and intent of state Election Law provisions governing campaign contribution limits and disclosures found in Article 14.

**In particular, we urge that you investigate whether donations made through LLCs are effectively circumventing the campaign contribution limits and donor disclosure requirements in Election Law. We have found troubling evidence that the Board's prevailing interpretation of how LLCs should be treated under Article 14 is subverting the law, denying the public information on who is underwriting campaigns and diminishing the public's trust in the integrity of the rules established to govern the competition for democratically-determined elections.**

**It is clear that the Board has opened a Pandora's Box of problems and troubles through its LLC interpretation—as demonstrated in this letter. Instead of trying to justify the ruling and ignore the fact it undermines the Election Law, it's time to acknowledge its failures and follow the federal rule.**

As you may know, an advocacy group recently made publicly available a listing of all LLC contributions contained within the Board's campaign finance database.<sup>1</sup> Our organization reviewed that information, verified the accuracy of the data as best we could, and identified issues that we believe the Board should examine:

- The Board's LLC decision may have had the consequence of enabling corporations to circumvent the Election Law's aggregate \$5,000 annual campaign contribution limit.
- The Board's LLC decision may have had the consequence of enabling individuals to circumvent the Election's Law's aggregate \$150,000 annual campaign contribution limit.

<sup>1</sup> See: <http://hedgeclippers.org/llcfiles/>.

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- The Board’s LLC decision may have had the consequence of denying the public the true identity of campaign contributors, and worse, may make it possible for contributions to be made without the true name of the contributor as required under New York Election Law.

### **Circumvention of the \$5,000 corporate limit.**

As you know, New York State law limits corporations to contributing no more than \$5,000 in the aggregate per year. Yet, the Board’s LLC decision has enabled corporations to circumvent that limit since a corporation may establish as many LLCs as it wishes. For example, in calendar year 2014 Cablevision donated \$425,000. As seen below, there were seven donations, all from the same address, all from the same parent company, yet far in excess of the corporate limit of \$5,000.

Name of LLC	Address	Town	NY	Zip	Check No.	Amount
CABLEVISION OF OAKLAND, LLC	1111 STEWART AVENUE	BETHPAGE	NY	11714	CHK1216168	50000
CABLEVISION OF NEW JERSEY, LLC	1111 STEWART AVENUE	BETHPAGE	NY	11714	CHK1217093	75000
CABLEVISION OF PATERSON, LLC	1111 STEWART AVENUE	BETHPAGE	NY	11714	CHK1217501	100000
CABLEVISION OF ROCKLAND/RAMAPO, LLC	1111 STEWART AVENUE	BETHPAGE	NY	11714	CHK1211008	50000
CABLEVISION OF WARWICK, LLC	1111 STEWART AVENUE	BETHPAGE	NY	11714	CHK1211053	50000
CABLEVISION OF OAKLAND, LLC	1111 STEWART AVENUE	BETHPAGE	NY	11714	CHK1212912	50000
CABLEVISION OF MONMOUTH, LLC	1111 STEWART AVENUE	BETHPAGE	NY	11714	CHK1214239	50000

Our findings are consistent with those identified by the Moreland Commission Investigating Public Corruption, which found that donors “utilized 25 separate LLCs and subsidiary entities to make 147 separate political contributions totaling more than \$3.1 million since 2008.”<sup>2</sup>

### **Circumvention of the \$150,000 individual limit.**

Similarly, state law limits individuals to contributing no more than \$150,000 in the aggregate per year. Yet, the Board’s LLC decision has enabled individuals to circumvent that limit since an individual can control as many LLCs as they wish. For example, it has been well-reported that real estate developer Leonard Litwin has exploited the LLCs he controls to donate millions of dollars, far in excess of the \$150,000 annual individual aggregate limit.<sup>3</sup> It has been reported that Mr. Litwin was able to funnel over \$1 million in contributions through the network of LLCs he controls to Governor Andrew Cuomo for the 2014 election.<sup>4</sup>

<sup>2</sup> N.Y. Commission to Investigate Public Corruption, Preliminary Report, page 37. See: [http://publiccorruption.moreland.ny.gov/sites/default/files/moreland\\_report\\_final.pdf](http://publiccorruption.moreland.ny.gov/sites/default/files/moreland_report_final.pdf).

<sup>3</sup> A listing of 68 LLCs reportedly linked to Mr. Litwin is available at: [http://littlesis.org/list/900/Litwin%27s\\_LLCs](http://littlesis.org/list/900/Litwin%27s_LLCs). NYPIRG did not attempt to verify the accuracy of those LLCs’ connections to Mr. Litwin.

<sup>4</sup> Reznick, J., “Leonard Litwin’s Political Donations: The Full Picture,” *Gotham Gazette*, See: <http://www.gothamgazette.com/index.php/government/5561-leonard-litwins-political-donations-the-full-picture>.

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#### Secret donors, secret donations.

As you know, the identities behind many LLCs are often obscured—they cannot be easily identified because the Department of State does not require LLCs to identify their members or managers. A review of the Department of State publicly available corporations database yields no useful information on who controls LLCs or the nature of their business. As a result, the public is denied meaningful disclosure in many instances.

Below we have identified \$225,000 in contributions from nine different LLCs, all with the same street address, but no other identifying information.

Name of LLC	Address	Town	NY	Zip	Amount
56TH REALTY LLC	1200 UNION TURNPIKE	NEW HYDE PARK	NY	11040	25000
79TH STREET REALTY LLC	1200 UNION TURNPIKE	NEW HYDE PARK	NY	11040	25000
80TH REALTY LLC	1200 UNION TURNPIKE	NEW HYDE PARK	NY	11040	25000
92ND REALTY LLC	1200 UNION TURNPIKE	NEW HYDE PARK	NY	11040	25000
ARWIN 74TH ST. LLC	1200 UNION TURNPIKE	NEW HYDE PARK	NY	11040	25000
ARWIN 88TH STREET, LLC	1200 UNION TURNPIKE	NEW HYDE PARK	NY	11040	25000
COLUMBUS 60TH REALTY LLC	1200 UNION TURNPIKE	NEW HYDE PARK	NY	11040	25000
EAST 46TH REALTY LLC	1200 UNION TURNPIKE	NEW HYDE PARK	NY	11040	25000
EAST 85TH REALTY LLC	1200 UNION TURNPIKE	NEW HYDE PARK	NY	11040	25000

Moreover, as seen below, we also identified examples of LLC contributions in which the addresses were Post Office boxes—adding yet another shield to the identities of the true sources of these donations.

Name of LLC	Address	Town	NY	Zip	Amount
226 WEST 75TH STREET LLC	PO BOX 750443	FOREST HILLS	NY	11137	350
1311 THIRD AVE LLC	PO BOX 750443	FOREST HILLS	NY	11375	350
233 WEST 233RD STREET, LLC	PO BOX 1008 - FT GEORGE STATION	NEW YORK	NY	10040	150
307 WEST 76TH ST LLC	PO BOX 1214	NEW CITY	NY	10956	100
1133-339 WESTCHESTER AVE. LLC	PO BOX 349	WHITE PLAINS	NY	10605	2500
EAST 7TH STREET ASSOCIATES LLC	PO BOX 3557	NEW HYDE PARK	NY	11040	1000
270 WEST 39TH ST CO., LLC	P.O. BOX 300	ISLAND PARK	NY	11558	1000
1625 BUFFALO AVENUE, LLC	P.O. BOX 408	NIAGARA FALLS	NY	14303	500
25 MONROE STREET, LLC	PO BOX 12753	ALBANY	NY	12212	50000

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As seen below, we offer examples of individual LLC contributions who mailing addresses were the same, in fact made “C/O,” i.e., in the “care of” another company. The public simply has no way to investigate the relationships between the putative LLC donor and the entity it lists as its “in care of” address. Are these entities in common control, with the LLC effectively an alter ego of the other entity? If so, we believe the letter and intent of the Election Law is breached.

<b>Name of LLC</b>	<b>Address</b>	<b>Town/County</b>	<b>NY</b>	<b>Zip code</b>	<b>Check #</b>	<b>Amount</b>
ASHLEY APTS CO., LLC	C/O M&R MANAGEMENT CO INC, 1501 AVENUE V	BROOKLYN	NY	11229	CHK20644	5000
3692 BEDFORD, LLC	C/O M&R MANAGEMENT CO INC, 1501 AVENUE V	BROOKLYN	NY	11229	CHK20644	5000
89-50 56TH AVENUE LLC	C/O KALED MANAGEMENT CORP. 7001 BRUSH HO	WESTBURY	NY	11590	CHK47708	2048.32
144-90 41ST AVENUE LLC	C/O KALED MANAGEMENT CORP. 7001 BRUSH HO	WESTBURY	NY	11590	CHK47708	1340.43
1685 FIRST AVENUE LLC	C/O MAUTNERGLICK CORP # 3, 1345 THIRD AV	NYC	NY	10075	CHK07445	500
118 EAST 92ND STREET LLC	C/O MAUTNER GLICK CORP # 3, 1345 THIRD A	NYC	NY	10075	CHK07445	500
72 BARROW STREET LLC	C/O AJ CLARKE REAL ESTATE CORP, 1881 BRO	NYC	NY	10023	CHK622924	500
125 CHRISTOPHER STREET LLC	C/O AJ CLARKE REAL ESTATE CORP, 1881 BRO	NYC	NY	10023	CHK622924	500
411 EAST 70TH STREET LLC	C/O MAUTNER GLICK CORP, 1345 THIRD AVENU	NYC	NY	10075	CHK17549	1000
1612 YORK AVENUE LLC	C/O MAUTNER GLICK CORP, 1345 THIRD AVENU	NYC	NY	10075	CHK17549	1000
9747 SHORE ROAD LLC	C/O DITMAS MGMT CORP, 3333 NEW HYDE PARK	NEW HYDE PARK	NY	11042	CHK10029	2500
437 W. 48TH STREET LLC	C/O DITMAS MGMT CORP, 3333 NEW HYDE PARK	NEW HYDE PARK	NY	11042	CHK10030	2500
714 WEST 181 STREET LLC	C/O LANGSAM PROPERTY SERV CORP, 1601 BRO	BRONX	NY	10462	CHK45201	83.43
1436 LEXINGTON AVENUE LLC	C/O LANGSAM PROPERTY SERV CORP, 1601 BRO	BRONX	NY	10462	CHK45201	83.43

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**Recommendation: Examine LLC contributions to ensure that section 14-120 is not violated.**

We urge that the Board begin a thorough review of LLC contributions in which the address of the LLC is either a Post Office box or in the “care of” another entity.

**A Renewed Call for the Board to track the FEC’s treatment of LLCs.**

This letter provides fresh evidence that the Board’s LLC interpretation is subverting the Election Law. We urged you once again to revise the interpretation of the Election Law with respect to LLCs to track the FEC’s treatment in this area.

The legal fiction that LLCs are individuals for purposes of the contribution limits in state Election law can no longer stand. We urge the Board to revisit this issue and adopt the FEC position that LLCs are to be treated as corporations or partnerships based on their IRS tax status and affirm their ability to make such contributions and provide information on how to attribute such contributions; and that the single source rule applies for attributing LLC contributions to the common managing member or general partner who controls it. Failing to do so, we urge that the Board ensure that the controlling entity behind multiple LLCs not exceed the individual contribution limit.

While we are aware of the Board’s recent gridlock over Co-Chair Kellner’s motion to change the way that LLCs are treated, we believe that new evidence underscores the corrosive effect that such companies’ campaign contributions has on the public’s right-to-know and may undermine the state’s requirement that contributions must be made under the true name of the contributor.

Accordingly, we urge the Board to undertake an examination of “dark money” LLCs—those named with only a street address, those with only a PO Box address, or those LLCs in which its address is in “care of” another entity. We further urge an examination of whether the Board’s legal interpretation is enabling corporations and individuals to circumvent the state’s campaign contribution limits.

Finally, we again urge that the Board follow the Federal Elections Commission and treat LLCs as they treat themselves under the IRS – either as a partnership or a corporation. However, if the Board’s gridlock continues, we urge that at a minimum you require LLCs identify their controlling entity and ensure that such individual or corporation be held to an aggregate limit as required of individuals.

Sincerely,

Blair Horner  
Legislative Director

Russ Haven  
Legislative Counsel

cc: Governor Andrew Cuomo  
John Flanagan, Temporary President of the New York State Senate  
Jeffrey Klein, Co-Leader, New York State Senate  
Andrea Stewart-Cousins, Minority Leader, New York State Senate  
Carl Heastie, Speaker, New York State Assembly  
Brian Kolb, Minority Leader, New York State Assembly  
Todd Valentine, Co-Executive Director, State Board of Elections  
Robert Brehm, Co-Executive Director, State Board of Elections  
Risa Sugarman, Chief Enforcement Counsel, State Board of Elections