



From the Desk of New York State Senator Ted O'Brien *District 55*

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MEDIA ADVISORY – FEB. 20, 2013: FULL TEXT OF SEN. O'BRIEN'S TESTIMONY ON CAMPAIGN FINANCE REFORM

BUFFALO, N.Y. – Sen. O'Brien testified today at Attorney General Schneiderman's hearing on campaign finance reform, speaking on his experiences with the "Common Sense Principles" organization.

He spoke about the organization's abuse of its nonprofit status to engage in unfettered campaigning, without having to reveal its sources of funding or respond when independent reviews found its ads to contain blatant falsehoods.

O'Brien also spoke about how such abuses threaten to undermine public confidence in the entire nonprofit sector.

The full text of his remarks follows:

"Good afternoon. My name is Ted O'Brien, and I represent the people of Monroe and Ontario Counties in the State Senate. I am delighted to be here today to discuss this important topic. And, before beginning my testimony, I want to express my appreciation to you, Attorney General Schneiderman, for your work to bring greater transparency and integrity to the nonprofit sector -- and to our state's politics.

In addition to having served as an elected official for most of the last decade, I continue to work as an attorney in private practice in the City of Rochester. So I know something about how complicated an area of law this is, and about the importance of getting policy right. Disclosure regimes like the one you have proposed implicate areas of our charities, tax and election laws, as well as the First Amendment of the U.S. Constitution. Having reviewed the proposal before us, it seems to me that you and your staff have gone to great efforts to strike the right balance in all of these areas, and I applaud you for having achieved a sound result.

The proposed regulations will provide much-needed transparency into the campaign activities of nonprofits for donors and the public at large, and they will do so in a manner that is narrowly tailored and consistent with First Amendment rights to free speech and association. Once adopted, the regulations will help prevent fraud, preserve the integrity of the nonprofit form, and provide transparency into who is spending money to affect the outcomes of political campaigns here in New York.

I want to focus primarily on this last benefit today. You see, I have an interest in this issue for reasons that go beyond being an elected official and an attorney. I have been affected personally by the activities of shadowy outside groups.

I first ran for election to the State Senate last year. My race was a highly competitive one in a swing district. The campaign was long and hard fought, and the final vote was close. My opponent and I had substantial

differences with respect to policy and the direction we each believed upstate New York needed to go, and we pointed out those differences at every opportunity.

Now, if that were the full story of the campaign, I would say “Fine. Politics is a tough business, and two candidates highlighting areas of contrast is part of that.” It’s also probably good for voters to have clear choices. But something else happened in my race that I have yet to come to terms with fully – and that I believe the proposed regulations will help address.

During the campaign, shortly before Election Day, voters in my district were bombarded with mailers from an outside group that made some very ugly, and very misleading, accusations about me. The mailer accuses me of having “betrayed New York women” for having “supported” a judge who had been accused of sexual harassment.

When I first read this, the implication seemed quite clear to me: the authors of the mailer were intimating that I condoned sexual harassment – or worse. Let me state a few things unequivocally for the record: I have never engaged in sexual harassment. I have never been accused of sexual harassment. I do not condone sexual harassment. Indeed, I abhor it.

The accusation leveled against me in this mailer was based on the flimsiest of facts. The professional acquaintance of mine to whom the mailer refers had, in fact, himself once been accused of such behavior. But, I think it is important to say, this accusation was made over a decade ago, in 1999. And the individual was never charged with a crime. The Greater Rochester Association for Women Attorneys seemed to give the allegation little weight when it supported this individual in a later run for office.

In politics, attacks are part of the business. And, after a decade of running campaigns, I’ve developed a pretty thick skin. When something this nasty and misleading is put out there, I won’t say that I like it. But I can handle it. I know how to explain it to my two young children, as I had to do last year. What I cannot accept is not knowing who is really behind these kinds of attacks. Because it is only by knowing who funds these things that one can fairly be expected to defend oneself.

The inability to appropriately defend oneself is perhaps best illustrated by another example from my campaign experience. Early in my campaign, mailers were sent out, which I have here today, suggesting that “Two-faced Ted O’Brien can’t have it both ways”. The mailers assert that, as a county legislator, I supported legislation requiring county legislators to take online Ethics Training, but then “did not take required Ethics Training in 2011”. By Legislative referral dated March 16, 2011, I had, in fact, called for online ethics training for all sitting members of the county legislature, but I did complete the online ethics training in 2011, evidenced by an ethics training completion certificate issued in 2011. The flyer was blatantly false.

Now, in Monroe County we have a Fair Election Practices Committee, established by the League of Women Voters and the Interfaith Alliance of Rochester, to review complaints of unfair campaign activities. The FEPC reviewed my complaint and decided that the mailer was inaccurate and unfair. Because the mailer was not sent by my opponent’s campaign, but by an out of state group, I was not able to hold anyone accountable. My opponent simply said “I don’t know anything about this”.

And after my initial Complaint was filed, additional mailers arrived in the mail boxes of voters throughout my District. Next came a mailer proclaiming that “Flip-Flopper Ted O’Brien Can’t Have It Both Ways”, reciting the identical false claim that I called for Ethics Training, but then did not take Ethics Training. And this was followed by yet another mailing suggesting that I was “New York’s Political Chameleon” because, again, I had called for Ethics Training, but then did not take required Ethics Training. I have these mailers here with Me today.

Because these mailers were sent by an outside group, with only a Virginia address, I was not able to demonstrate who was behind the dissemination of these mailings. I mailed complaints to the address, but never had a response or acknowledgement. There was no indication of who Common Sense was, or anyway to hold anyone accountable for their repeated mailing.

I was able to trace these mailers to an out-of-state group in rural Virginia with the innocuous-sounding name, “Common Sense”. A Virginia relative of mine went to the address on the mailings and found only an entity in the business of filing business records for other entities – essentially just a Post Office Box for the group. There was no entity operating as “Common Sense” at the address provided. The group was later linked by media sources to a consultancy managed by two partisan political operatives, one of whom is best known for having advised the notorious “Swiftboat Veterans for Truth” during the 2004 Presidential campaign.

To this day, no one really knows who funded the group, or why. I believe that is information to which candidates, voters and prospective donors to organizations are entitled. And I believe the regulations you have proposed will help to achieve those goals.

I also have a second reason for supporting the regulations. For many years, I served on the board of an organization called Heritage Christian Services in Rochester. HCS is a vibrant human services agency in Rochester that provides housing, rehabilitation programs, and other crucial assistance to approximately 1600 adults and children with developmental disabilities and other needs. I am proud of the work HCS does, but I also know just how fragile the nonprofit sector is.

At a time of declining state financial support, and in the wake of one of the deepest recessions this country has seen in decades, it is absolutely essential that we do everything we can to keep New York’s nonprofit sector strong. So, it is a great concern to me when groups whose primary – or even sole – purpose is to intervene in campaigns are allowed to masquerade as tax-exempt “nonprofit organizations.” I worry in particular that these groups, and the nasty ads they air, may tarnish the reputation of the rest of the nonprofit sector. “Good” nonprofits like HCS simply cannot afford to have the public, and the donor community, turned off like this. Their goodwill, and financial support, is simply too important.

So, it seems to me, the proposed regulations will have an additional benefit for New York’s nonprofit sector. By making public how much money groups spend on political campaigns – and how they spend it – the regulations will help the public and the donor community know which organizations are which. With these disclosures, it will be absolutely clear which nonprofit organizations are acting like shadow campaign committees, and which are doing work that is genuinely in the public interest.

In closing, I again want to extend my appreciation for your efforts. And I want to voice my support for the proposed regulations. I look forward to seeing them become law in New York – and to the benefits they will provide. With that, I will gladly take any questions you may have.”

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Sen. O’Brien represents the 55th district in the Senate, which is made up of the eastern half of Monroe County and the western half of Ontario County, including much of the city of Rochester.

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