



FOR IMMEDIATE RELEASE  
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FINDINGS IN THE COMPLAINT OF  
TIM GORDON AGAINST MARTIN REID  
COMPLAINT 2006-2

Fair Campaign Practices for the Capital Region, Inc. (FCP) held a hearing on October 30, 2006 to consider a complaint made by Tim Gordon against Martin Reid. Both are candidates for the office of Assemblyman in the 108<sup>th</sup> Assembly District. Present were Hearing Panel members Eugene Rowland (Chair), Aimee Allaud, Joan Elliott, Elizabeth Smith-Holmes, and Jean Wilkinson and Coordinator Betsey Swan. Mr. Gordon appeared in person. Mr. Reid and his campaign manager Richard Crist submitted written objections to the proceeding but did not appear.

Mr. Gordon complained that two mailings made by the New York Republican State Committee (NYRSC) on Mr. Reid's behalf contained unfair and misleading attacks upon Mr. Gordon's character, half-truths, distortions of fact, and unsubstantiated allegations of personal misconduct.

The first flier contained the following language:

Tim Gordon is no independent – HE'S BOUGHT AND PAID FOR BY THE NYC POLITICAL BOSSES! Tim Gordon must think you're a fool! He's taking tens of thousands of dollars from the NYC political bosses to fund his campaign and is using the money to lie to you about his independence. That's why the *Times Union* questioned his independence\* - pointing out those funding his campaign. (Times Union 10/14/06) The next time Tim Gordon sends you a slick mailer claiming to be "independent," remember who paid for it – the NYC political bosses who are blocking reform efforts in Albany.

WHY IS GORDON LYING? TO HIDE FROM HIS REAL RECORD: RAISED the property tax levy 18%. RAISED home assessments up to 90%. RAISED water taxes and connection fees. RAISED sewer taxes and connection fees.

The second flier contained the following language superimposed over a picture of brown goo:

Tim Gordon did NOTHING to stop this TOXIC SLUDGE. Tim Gordon stood by and did NOTHING when the EPA threatened to dump this toxic sludge from the Hudson River in Bethlehem. If he won't stand up for his own hometown, imagine how he'd represent you in the Assembly!

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In the two letters submitted by Mr. Reid and his Campaign Coordinator Richard Christ, they argued that the Gordon complaint was defective because it contained “no specific allegations of misstatements or factual inaccuracies or errors by the Reid campaign” and that FCP had unreasonably refused to postpone the hearing for 72 hours. In his response, Mr. Reid stated, “The fact that Mr. Gordon has failed to do so (provide proof of his claims in the complaint) demonstrates that his charges are baseless, without merit, and done purely for political reasons.” Mr. Christ, while raising procedural objections, stated, “we fully stand by the flyers and other materials issued for the campaign.”

FCP considered Mr. Reid’s assertion that the complaint was insufficiently specific, finding it to be without merit. Procedures for filing a complaint are listed in section II of FCP’s Candidates’ Manual, available on-line at [www.crisny.org/not-for-profit/lwvac](http://www.crisny.org/not-for-profit/lwvac) and provided to candidates in hard copy upon request. A complaint is filed by completing a complaint form, serving it on the opponent complained of, and filing it with FCP. The Directions for Pursuing an Expedited or a Non-Expedited Complaint require the candidate to complete the Complaint Form, which contains candidate information, along with a description of the unfair campaign practices. The instructions for completing the description of unfair campaign practices instruct the complainant to describe both the facts that constitute the Unfair Campaign Practices and the applicable principles that were violated. Mr. Gordon attached two campaign fliers and stated how each violated FCP principles, although he did not cite the number of each principle allegedly violated and did not list the specifics rendering each brochure unfair.

We find the complaint filed by Mr. Gordon was sufficiently specific to enable Mr. Reid to present a defense, had he chosen to do so. In the written materials submitted on his behalf, Mr. Reid misapprehends the nature of the FCP process, in which the purpose of the complaint is to give notice of the offensive materials with factual information to be developed at the hearing. While FCP seeks the maximum specificity in complaints filed, it will hear a complaint that specifies the offensive materials, articulates the principles violated, whether verbally or by number, and is properly served upon the candidate complained against. In articulating this standard it is important to note that the purpose of FCP is to inform voters of the fairness of campaign materials in an expeditious fashion. FCP does not purport to be a court of law or a duly constituted administrative body. Rather, it is a citizen watchdog group formed by the League of Women Voters and the Interfaith Alliance to review and inform the electorate of the truth or falsity of candidate campaign literature. Panels of citizens, active in community affairs but not actively engaged in partisan politics, attend hearings in which candidates present and defend against complaints. At the conclusion of each hearing, the FCP hearing panel issues a written decision for distribution to the candidates and press. In keeping with its constitution as a citizen watchdog group and with its need to decide complaints in time to educate voters BEFORE an election, FCP has adopted a simple process for the filing of complaints, which assumes many candidates will file without the assistance of or representation by a lawyer. While maximum specificity in articulation or the complaint assists the panel in reaching its decision, it is not a prerequisite to the filing of a valid complaint.

FCP also considered Mr. Reid’s request for a postponement of the hearing and found it failed to meet the standards required for postponement set out in section IV.B.2 of the FCP Candidates’ Manual, which provides for postponement of expedited hearings by agreement of the candidates with consent of the Coordinator. In this case Mr. Gordon refused to consent to the postponement because he had already cancelled another campaign engagement to appear at the October 30 hearing.

#### FIRST FLIER

At the hearing, Mr. Gordon complained that the first flyer was false and misleading in three respects. First, it falsely alleged that he received tens of thousands of dollars from New York City political bosses. Gordon explained that he had received substantial funding from the New York State Democratic Assembly Campaign Committee, and that his opponent had received comparable amounts from the Republican Assembly Campaign Committee, which contributions were reflected

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in the required financial filings. He further explained that he had received a minimal contribution from friends of his family who live in New York City, but that he was unaware of contributions from "NYC Political Bosses" and assumed that the literature in question had mischaracterized the Democratic Assembly Campaign Committee as contributions from NYC Political Bosses. FCP finds this assumption to be credible, as the financial filings indicate the only contributions amounting to tens of thousands of dollars came from the Democratic Assembly Campaign Committee.

Second, it incorrectly stated he had voted to raise the property tax levy by 18%. Gordon, who has served on the Bethlehem Town Board since 2004, has supported a levy increase totaling 7.90% during the two years he has been in office, according to data provided by the Bethlehem Comptroller's office.

Third, it mischaracterized his vote to support a town-wide reassessment by implying he had personally voted to raise Bethlehem assessments by up to 90%. Taxes are assessed based on the value of real property within the taxing district. To assure that the assessed value of property accurately reflects market value, thereby assuring fairness in the amount of taxes each property owner pays, taxing jurisdictions periodically arrange for reassessment of the property tax roll, applying uniform standards to increase or decrease the assessed value of property according to its market value. Mr. Gordon voted for such a reassessment that resulted in substantial increases in the assessed value of the homes of certain Bethlehem residents. As the result of this reassessment, the purpose of which was to assure that the assessed value of Bethlehem's housing stock accurately reflected its fair market value, the assessed values of some residents' properties were increased by up to 90%. As a member of the Town Board, Mr. Gordon had no part in conducting the reassessment or in reassessing individual properties.

The flier in question did not mention Mr. Reid or indicate that it was disseminated in support of his candidacy; rather, it was identified as coming from the New York Republican State Committee.

#### FINDING: UNFAIR CAMPAIGN PRACTICE.

The materials in the flier violate FCP principles 4, 5, and 7. Failure of the flier to identify that it was distributed on behalf of Mr. Reid violated FCP principle 5.

The flier distorted or falsified the amount and sources of Mr. Gordon's campaign contributions in violation of principle 4, which provides that the candidate will not condone the use of campaign material that misrepresents, distorts, or otherwise falsifies a fact about the candidate. As indicated above, the flier mischaracterized contributions from the Democratic Assembly Campaign Committee as NYC contributions from NYC Political Bosses.

The assertion that Mr. Gordon raised the property tax levy 18% similarly violated FCP principle 4 by falsely overstating the amount of increase by over 10%.

Finally, the assertion that Mr. Gordon's action in voting for a reassessment of town real property by erroneously implying that he personally raised home assessments by up to 90% distorted Mr. Gordon's role in the process, in violation of principle 4.

Even if Mr. Reid had no hand in the preparation and distribution of this flyer, his actions still violate FCP principle 7, which requires candidates to promptly and publicly disavow the materials of any group whose materials violate the FCP principles or whose materials would constitute a violation if disseminated by the candidate. This principle was adopted to guard against situations such as this, in which candidates seek to retain the benefit of unfair and misleading campaign materials without accepting any responsibility for their dissemination. Rather than repudiating the offensive flier, Mr. Reid's Campaign Coordinator, in his letter to FCP, indicated the campaign stood behind the brochures submitted on its behalf.

## SECOND FLIER

Mr. Gordon alleges that the second flyer was misleading because it showed a picture purporting to be of toxic sludge and stated he did nothing to stop it. It further stated that he stood by and did nothing while the EPA threatened to dump toxic sludge from the Hudson River in Bethlehem, on whose Town Board Mr. Gordon currently sits.

The brochure alludes to a settlement agreement reached between General Electric (GE) and the Environmental Protection Agency (EPA) for the cleanup of the Hudson River. In the agreement, GE agreed to dredge the Hudson River to clean up PCBs dumped in the river by its manufacturing operations over a period of approximately 30 years. Part of the cleanup process requires removal of water from the contaminated material and transportation of the dewatered material to a lined landfill for disposal. Once the agreement was signed, the EPA embarked upon a multi-year process to determine an appropriate site for the dewatering/transfer plant. The process included initial identification of over 30 potential sites, narrowing down the initial list to 2 sites, one of which was located in the Town of Bethlehem, and final selection of Fort Edward as the site of the dewatering plant. Mr. Gordon introduced minutes of the February 9, 2005 meeting of the Bethlehem Town Board, in which he moved to establish a Citizens Advisory Committee with respect to the EPA/GE dewatering/transfer site in Glenmont (in the Town of Bethlehem). The motion passed with one abstention. It should be noted that EPA made the final determination of plant siting, so that Mr. Gordon and the Bethlehem Town Board had no authority or opportunity to approve or disapprove the site.

### FINDING: UNFAIR CAMPAIGN PRACTICE.

The materials in the flyer violated FCP principles 4 and 7. It falsely stated Mr. Gordon had done nothing with respect to the dewatering/transfer plant (mischaracterized by the flier as "a threat to dump sludge from the Hudson River in Bethlehem), when in fact he spearheaded a citizen's committee to identify and advocate for community interests. The misrepresentation of Mr. Gordon's position is further highlighted when the heavy-handed language used to characterize Mr. Gordon's actions is compared to language used to describe Mr. Reid's actions on the opposite side of the flier, where Mr. Reid was characterized as having, "Led the fight against locating a dredging facility in Rensselaer County."

Even if Mr. Reid had no hand in the preparation and distribution of this flyer, his actions still violate FCP principle 7, which requires candidates to promptly and publicly disavow the materials of any group whose materials violate the FCP principles or whose materials would constitute a violation if disseminated by the candidate.

If a candidate or campaign wishes to quote from this Finding, FCP requires that the Finding be quoted in its entirety. FCP regards selective quotation of its Findings as an Unfair Campaign Practice.