

PROBE SOUGHT OF MILLER MAILING

Fields Campaign Seeks Action From 2 Independent City Boards

By JILL GARDINER
Staff Reporter of the Sun

The president of Manhattan, C. Virginia Fields, called on two independent city boards yesterday to investigate a recent mailing that one of her rival Democratic mayoral candidates sent from his government office.

Officials with the Fields campaign hand-delivered letters to the city's Conflicts of Interest Board and Campaign Finance Board asking that they review a recent batch of City Council mailings that prominently featured the speaker

of the council, Gifford Miller.

The materials, which have been deposited in mailboxes all over the city, were sent to more than 100,000 residents not long before a blackout period that goes into effect today. Elected offi-

cial who are running for office are prohibited from using government money on mass mailings for 90 days leading up to an election. In this case, that election is the Democratic primary, which is set for September 13.

The council mailings, which were the subject of a front-page article in The New York Sun last week, included glossy, color brochures that focused on Mr. Miller's proposal for decreasing class sizes in public schools. The brochures have three photos of Mr. Miller, mention his name 10 times,

and have two postage-paid cards for recipients to send to Mayor Bloomberg or the council to register their opinion. A Miller spokesman said the council has received about 10,000 of the reply cards.

Other mailings were zoned pamphlets in more than 40 neighborhoods. Those featured the speaker in a photo next to the local council member. In Coney Island and in parts of Brighton Beach, for example, residents received fliers with a picture of Mr. Miller next to their council member, Domenic Recchia Jr.

The zoned batch came in three versions, focusing on the council's efforts to restore budget money for libraries, senior centers, and street safety. The text chides Mr. Bloomberg for proposing reduced spending on tree pruning and on library hours, among other services. In those pamphlets, Mr. Miller was featured in four photos, while the local council member was in one or two.

An attorney for the Fields campaign, Leo Glickman, requested in his letter to the conflicts board that the mailing lists used by that Mr. Miller's council office be subpoenaed, to ensure that the

Please see FIELDS, page 3

NEW YORK

Fields Campaign Calls on City Boards To Probe Mailings From Office of Council Speaker Miller

FIELDS continued from page 1
material was not strategically targeting voters.

Mr. Glickman wrote, however, that even if a review reveals no impropriety in connection with the lists, "a mailing of this magnitude going to so many people outside of his council district still constitutes a blatant attempt to use his public office for private gain; using his taxpayer funded office to fulfill his own private political ambitions."

Mr. Miller's chief spokesman at the council, Stephen Sigmund, dismissed Ms. Fields's action as a political ploy and said, as he did last week, that the mailings were a standard way for the council to communicate with constituents before the final budget is negotiated. Under regulations of the Campaign Finance Board, he said, the speaker is permitted to send materials to constituents outside the district prior to the blackout period.

"These are mailings that we do each year. It's not only the speaker's responsibility to send them, it's his job," Mr. Sigmund said. "Any political opponent who is criticizing it is doing so for silly political reasons."

The items were printed in more than 40 varieties through 30 separate printings, Mr. Sigmund said. He said yesterday that he was unable to determine the exact cost, but estimated that the total ran about \$37,000, including printing, design, and postage. The council's in-house staff was responsible for the design, while either one or two outside companies handled the printing, he said. The names of the printers were not immediately available.

Printing jobs valued at more than \$5,000 must be awarded to a bidder through a formal request-for-proposals process. That did not happen in this case, because the work was divided into 30 separate jobs. Mr. Sigmund denied that the division was an attempt to avoid preparing and circulating an RFP, saying the fliers were "individual mailers."

A professor of political science at Cooper Union, Fred Siegel, said Ms. Fields had made a shrewd political move in picking up on the matter, but said the issue would have very little impact on votes or substance in the campaign.

"It's a smart thing for her to do because it allows her to look like she's for good government," he said. Still, he said, the misuse of "franking privileges" is a minor abuse that goes far beyond Mr. Miller.

Last week, the president of the non-profit Citizens Union, Dick Dadey, told the Sun that because current law allows those kinds of mailings before the blackout period, it was unfair to single out Mr. Miller. Re-examining the law, he said, was another story.

Nonetheless, not all council members were comfortable with the mailing. Yesterday, Council Member Tony Avella, a Queens Democrat who said last week that the boxes of mailings he received looked like campaign materials for the speaker, said he, too, planned to write to the Campaign Finance Board, as well as to take the matter up with Mr. Miller's staff.

Another council Democrat, who declined to go on the record, also said the materials looked more campaign-like than he had expected.

The council's majority leader, Joel Rivera, a Democrat of the Bronx, said during a phone interview that the

council had followed the "letter of the law" by ensuring that the mailings had gone out before the blackout period.

He also said the mailings were more attractive this year.

"They are very attractive pieces that are much more appealing to the eye than in other years," he said. "But the sole purpose of sending them is to get people to take time out to look at them."

Mr. Rivera has a good relationship with Mr. Miller, but recently endorsed his own hometown candidate in the mayoral primary, Fernando Ferrer, who is the former president of the Bronx.

An election lawyer who is working for Mr. Miller's campaign, Henry Berger, said that he was not involved in the mailing but that it clearly was not a violation of the blackout law.

And Mr. Miller's campaign manager, Brian Hardwick, called the Fields complaints "pure political grandstanding."

"We are confident that this will be dismissed as having no merit whatsoever," he said.

A spokeswoman for the Campaign Finance Board, Tanya Domi, said the panel would review Ms. Fields's complaint and determine whether action was necessary.

At the conflicts board, the deputy executive director and general counsel, Wayne Hawley, said it is against policy to confirm whether the board had received anything on the matter.

The harsh language in the complaints constitutes a new level of invective among the Democrats seeking to run against Mr. Bloomberg.

Meanwhile, Ms. Fields began circulating her own mailing yesterday, paid for by her campaign.

The eight-page color brochure includes photos of her standing near Martin Luther King Jr. during civil rights rallies and outlines her vision for the city.

Officials with her campaign said "roughly" 100,000 pieces were mailed out. They did not reveal the cost.

The City Council approved last year a change in the law that extended the blackout period on "mass mailings before an election" to 90 days from 30 days. That regulation was favored by the Campaign Finance Board.

An exception was made, however. "Within such ninety-day period, public servants may send one such mass mailing following the adoption of the city budget," the law states.

Letters Outline Questions on Miller Mailings

Here are excerpts from two letters sent yesterday by lawyers for the mayoral campaign of the borough president of Manhattan, C. Virginia Fields.

To: New York City Campaign Finance Board

Pursuant to Rule 7-01 of the Rules of the New York City Campaign Finance Board, Fields for New York (hereinafter, "the committee") makes the following complaints against A. Gifford Miller and the political committee supporting his campaign for Mayor.

Upon information and belief from an article in the New York Sun on June 8, 2005, and from recipients, A. Gifford Miller has sent several mass mailings paid for by his government office containing an electioneering message.

... the mass mailings were sent to council districts other than his own. Some included photos of other Council members; others did not. The ones that included others more prominently featured Mr. Miller than the local Council member.

Upon information and belief from the same sources, the mass mailings urge people to "call" Mayor Bloomberg to take certain actions.

Section 1136.2(c) of the Charter of the City of New York prohibits public servants from using governmental funds or resources for electioneering messages.

An electioneering message is defined ... as a statement "designed to urge the public to elect or defeat a certain candidate for elective office...."

... the mass mailings appear to be designed to promote his own election campaign for Mayor.

The New York City Campaign Finance Board should, therefore, find that A. Gifford Miller has violated Section 1136.2(c) of the Charter of the City of New York.

Accordingly, inasmuch as the expenditures from his Council office were undoubtedly made in coordination with Mr. Miller for the transparent purpose of his campaign for Mayor, these expenditures should be counted towards his mayoral campaign's expenditure limit.

It is requested that the New York City Campaign Finance Board ... investigate this matter and take enforcement action as appropriate.

... A. Gifford Miller sent the said mass mailings to residents outside his own Council district, and to residents of vari-

ous other Council member's districts, including that of Council member Tony Avella's district in Queens.

Section 1136.2(b) of the Charter of the City of New York provides that ... no mass mailings shall be "intentionally sent to individuals "outside the particular council district" represented by such candidate.

The said mass mailings were obviously intentionally sent to residents in districts other than his own.

Mark A. Davies NYC Conflicts of Interest Board

Dear Mr. Davies:
The New York City Charter provides that "no public servant shall use or attempt to use his or her position as a public servant to obtain ... any private or personal advantage." Section 2604(b)(3).

According to an article in the New York Sun dated June 8, 2005, Miller spent taxpayer dollars to send out mass mailings promoting himself to New Yorkers outside of his council district.

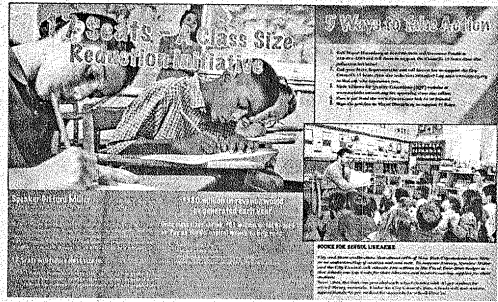
By sending these mailings, we believe Mr. Miller violated the sacred trust between the people of New York City and their elected representatives that a public official not use his public office for private gain.

We therefore file this complaint and request that the following issues be investigated:

- 1) Did Gifford Miller send these mailings to registered Democrats only?
- 2) Did Gifford Miller send these mailings to "prime" Democratic voters?
- 3) Did Gifford Miller send these mailings to what he believes to be strategically important areas to his Mayoral campaign?
- 4) Did Gifford Miller send these mailings to what he believes to be people who are of strategically important demographic groups?

We respectfully request that the Conflicts of Interest Board subpoena the mailing lists that Mr. Miller's City Council office used to send this literature to get to the bottom of these questions.

However, even if the answer to all of these questions is "no", a mailing of this magnitude going to so many people outside of his Council district still constitutes a blatant attempt to use his public office for private gain; using his taxpayer funded office to fulfill his own private political ambitions.



MILLER BROCHURE Touting the council speaker's education reform ideas, this mailing drew attention from the C. Virginia Fields campaign.



FIELDS She has called for the city's Campaign Finance Board and Conflicts of Interest Board to investigate a mailing by the council speaker.