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Cuomo Took Campaign Cash From Lawyers With Matters Before Him

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By Linda Sandler and Karen Freifeld



Nov. 23 (Bloomberg) -- New York Attorney General **Andrew Cuomo's** campaign fund took tens of thousands of dollars from law firms representing clients his office investigated or accused of wrongdoing, state records show.

Boies Schiller & Flexner LLP, a New York law firm led by **David Boies**, gave Cuomo \$35,000 this year, records show. The firm represents former American International Group Inc. Chief Executive Officer Maurice "Hank" Greenberg in a civil fraud case the attorney general is pursuing. Lawyers defending **Dell Inc.**, **Deutsche Bank AG** and a former state political party chief in

Cuomo cases also contributed to him, records show.

Cuomo's donation forms ask contributors to sign a statement saying they have no "matter" pending with him. That rule "does not extend to attorneys representing persons or entities with matters before the NYS Attorney General's office," the form states, mirroring his predecessors' policies. The exception creates the appearance of impropriety, ethics experts said.

"If Cuomo doesn't want to accept contributions that have the appearance of being corrupting, then he would need to include those attorneys as well," said Allison Hayward, a former Federal Election Commission chief of staff and counsel who teaches legal ethics at George Mason University School of Law in Arlington, Virginia.

Middlemen, such as lawyers, are sometimes seen as a bigger threat to an official's integrity than their clients, because "they are working the political system for a profession, and the public sees them as insincere and manipulative," she said.

\$974,000

Cuomo in 2006 and 2008 raised \$974,000 from lawyers and lobbyists across the U.S., out of a total \$18 million, according to FollowTheMoney.org, the Web site of the nonprofit National Institute on Money in State Politics, which analyzes campaign funding. He raised more than \$10 million as of July, records show. The next filing is due in mid-January by which time Cuomo, 51, plans to have \$20 million in donations, a person familiar with his plans said.

Cuomo plans to run for governor, according to a person familiar with his plans. His 'Andrew Cuomo 2010' campaign fund has raised \$16 million to challenge fellow Democrat, Governor **David Paterson**, a person familiar with his plans said.

If Cuomo were to reject lawyer donations to avoid any appearance of conflict, he could still raise enough for "a credible campaign," said Ronald Michaelson, a former national chairman of the Council of Governmental Ethics Laws who teaches at the University of Illinois at Springfield.

"Even if he's going to use the money in a gubernatorial race, he would still be the attorney general," he

said in an e-mail. "The perception of impropriety is obviously clear, and that's reason enough to refuse the money."

Hurt Chances

Excluding large groups of donors might make Cuomo a leader in ethics while hurting his chance to be elected, said Susan Lerner, executive director of Common Cause, New York, a nonprofit that promotes honesty in government.

"People who run for office are between a rock and a hard place," she said. "The system stinks. If you don't want people running for office to be influenced by campaign contributions, then you have to give them public money to run."

Richard Bamberger, a Cuomo spokesman, said in an e-mail, "Lawyers appear constantly before all sorts of government agencies, whether it is the Mayor's Office, the Governor's Office, or countless agencies and boards. No one would argue that lawyers can't donate to candidates for any of these offices. Indeed, the ABA and New York State rules specifically encourage lawyers to participate in the political process."

The Rules

The American Bar Association "Model Rules" for lawyers, which don't address attorneys general, prohibit donations to judges made for the purpose of getting hired. Cuomo, who doesn't hire outside lawyers, abides by that principle, Bamberger said. New York State rules for attorneys allow contributions to judges or public officials as long as the recipient is allowed to accept gifts.

Eliot Spitzer, attorney general from 1999 to 2006, took lawyer donations too from those with cases before him. Boies gave him \$15,000 and the Boies Schiller firm gave \$10,000 in 2004, according to state records.

"Candidates in New York State for district attorney, judge, attorneys general, and all other offices have operated under the very same rules for decades," Bamberger said.

Spitzer, who resigned as New York State governor amid a call-girl scandal in March 2008, declined to comment.

Peter Harvey, a partner at Patterson Belknap Webb & Tyler LLP, who attended a Nov. 18 lawyer fundraiser for Cuomo and has been a supporter since Cuomo ran for attorney general, said that a contribution means "you get a meeting."

No Special Treatment

"You get an opportunity to communicate your thoughts but that doesn't mean the person listening is going to agree with you," said Harvey, New Jersey's former attorney general. In fact, he said, "because you are a supporter they will be careful not to give you any special treatment" so they can't be accused of anything.

Cuomo's campaign chest is being swelled by lawyer donations and pledges from recent fundraisers including a Nov. 12 event at the Trump National Golf Club in Briarcliff Manor, New York, and the Nov. 18 lawyers breakfast, held at New York's Sheraton Hotel with a requested \$1,000 minimum donation.

Maria Vullo of Paul Weiss Rifkind Wharton & Garrison LLP, co-chair of the "Lawyers Committee for Andrew Cuomo," said about 200 people attended the Nov. 18 breakfast, exceeding the target in a non-election year for Cuomo. The attorney general spoke about "integrity" in state government, she said.

Sponsoring firms at the event included Sullivan & Cromwell LLP and Skadden Arps Slate Meagher & Flom LLP.

The Greenberg Case

Cuomo's case against Greenberg, inherited from Spitzer, is pending in New York state court. Greenberg, pushed out by AIG's board during a 2005 probe by Spitzer, asked a judge in September to dismiss the

suit, which accused him of distorting the company's financial condition.

If the case isn't dismissed, Cuomo could still drop or settle it, both of which would benefit Boies. Boies, who represented the U.S. Justice Department in a successful antitrust case against Microsoft Corp. and former Vice President **Al Gore** in a court fight to recount Florida votes in the 2000 presidential election, didn't respond to a call and e-mail seeking comment. Spokeswoman **Dawn Schneider** declined to comment.

New York-based Kramer Levin & Frankel LLP gave Cuomo \$33,459 in 2005 and 2006 for his successful attorney general race, records show. This year at least 21 Kramer Levin partners gave Cuomo amounts of \$100 to \$500 each on June 3, according to state Board of Elections data.

Raymond Harding

Co-Chair **Gary Naftalis** is representing former New York Liberal Party Chairman **Raymond Harding**, who pleaded guilty Oct. 6 to wrongfully taking \$800,000 from investment firms that sought access to New York public pension fund money.

Since 2007, Cuomo has been investigating kickbacks at the \$116.5 billion state fund. Harding, who agreed to cooperate with Cuomo, eventually will be allowed to withdraw his felony plea, the judge handling the case said in court.

"Our firm, like many other law firms, makes contributions to candidates whose policies we support," said Kramer Levin Managing Partner **Paul Pearlman** in an e-mailed statement. "All our contributions are vetted to insure that they comply with all applicable ethical and legal standards. These contributions are not intended to have any impact whatsoever on client matters involving regulatory bodies."

Cuomo in 2007 sued Dell, the third-biggest personal-computer seller, accusing it of deceptively advertising financing and warranties. The company committed to pay \$4 million in restitution and penalties, Cuomo said in a Sept. 15 release. Featherstonhaugh Wiley & Clyne LLP, Dell's local counsel in Albany, New York, gave Cuomo \$18,000 in 2008 and 2009, state records show.

No Benefit

Name partner James Featherstonhaugh said he hasn't noticed that his donations helped clients. He failed this year to win money for a client who had a ski accident at a state-owned resort that Cuomo's office defended, Featherstonhaugh said.

"I contributed because I have known him since he was 20, am an old friend of his father's, and his brother Chris used to work for me as an intern," Featherstonhaugh said.

Cuomo's campaign, according to state records, took \$2,500 on Dec. 15 from Philadelphia-based Morgan Lewis & Bockius LLP, which represented Deutsche Bank as Cuomo probed banks that allegedly underrated the risks of auction-rate securities.

Settling with Cuomo, the Frankfurt-based lender agreed to pay \$15 million in penalties to state regulators, Cuomo said in August. It was one of a series of deals that made banks, including Goldman Sachs Group Inc. and Merrill Lynch & Co., return \$61 billion to investors who bought illiquid securities after being told they were safe, Cuomo estimated in July.

TD Ameritrade

Morgan Lewis Chairman **Francis Milone** didn't respond to calls and e-mails seeking comment.

Chicago-based Mayer Brown LLP, which represented TD Ameritrade Holding Corp. in Cuomo's auction-rate securities probe, gave the attorney general \$2,000 on May 4, according to state records. The Omaha, Nebraska-based online brokerage agreed in July to buy back \$456 million of the illiquid investments from customers, Cuomo said in a July 20 release.

Kenneth Geller, managing partner at Mayer Brown, didn't respond to e-mails and calls seeking comment.

In a September settlement with Cuomo, Philadelphia-based life insurer Coventry First LLC said it agreed to pay the state \$10.5 million to end a lawsuit originally filed by Spitzer in 2006 that alleged it had defrauded policy holders.

Los Angeles-based O'Melveny & Meyers LLP, Coventry's law firm, gave Cuomo \$7,500 on May 10, 2006, through a political action committee, according to state data.

Wouldn't Contribute

"We do not think that the attorney general of New York would make it any easier for lawyers or cut any slack for their clients because of the lawyers' prior campaign contributions," said [Arthur Culvahouse Jr.](#), the law firm's chair, who was counsel to President [Ronald Reagan](#) in the 1980s. "That was not our thinking in 2006 or now. Indeed, as officers of the court we would not contribute to a candidate if we thought that were the case."

Lawyers probably regard campaign contributions as "a cost of doing business," said [Peter Henning](#), a former U.S. Securities and Exchange Commission senior lawyer who teaches legal ethics at Wayne State University Law School in Detroit. "They take the view that it will help us down the road."

Former New York Attorney General [Dennis Vacco](#), who lost to Spitzer in 1998 and has a case before Cuomo, has contributed to him even though his own policy was not to take money from lawyers who had pending matters. He did accept money from such a lawyer's firm, he said.

Such an exemption, he said, might be interpreted as "splitting hairs."

To contact the reporters on this story: [Karen Freifeld](#) in New York at kfreifeld@bloomberg.net; [Linda Sandler](#) in New York at lsandler@bloomberg.net.

Last Updated: November 23, 2009 00:01 EST

