

**APPLICATION REQUESTING AN EXEMPTION FROM
SOURCE OF FUNDING DISCLOSURE REQUIREMENTS**

NYS Joint Commission on Public Ethics
540 Broadway, Albany, NY 12207
518-408-3976/jcope@jcope.ny.gov

The regulations governing a Client Filer's obligation to disclose sources of funding are contained in 19 NYCRR Part 938. These regulations provide that a Client Filer may seek an exemption from the source of funding disclosure requirements. Part 938.4 sets forth the applicable standards upon which an exemption shall be granted by the Joint Commission on Public Ethics. In addition to completing this form, please review the procedures to apply for an exemption in Part 938.5.

**ALL CLIENT FILERS SEEKING AN EXEMPTION TO THE SOURCE OF FUNDING
DISCLOSURE OBLIGATIONS MUST FILL OUT THIS FORM.**

Name of Client Filer Requesting Exemption:	New Yorkers for Constitutional Freedoms
Name of Individual Authorized to File Request:	Jason McGuire
Title:	Executive Director
Telephone Number:	585 225-2221
Address:	PO Box 107 Spencerport, NY 14559
E-Mail Address:	Jason@Albanyupdate.com

1. Client Filer is an IRC §501(c)(4) organization seeking an exemption from disclosing all Sources pursuant to 19 NYCRR Part 938.4(b), which requires a showing that the Client Filer's "primary activities involve areas of public concern that create a substantial likelihood that disclosure of ... its Sources will cause harm, threats, harassment or reprisals to the Sources or individuals or property affiliated with the Sources."
2. Client Filer is not an IRC §501(c)(4) organization and is seeking an exemption for a Source, Sources, or class of Sources pursuant to 19 NYCRR Part 938.4(a), which requires a showing by "clear and convincing evidence that disclosure of the Source [or Sources] will cause a substantial likelihood of harm, threats, harassment or reprisals to the Source or individuals or property affiliated with the Source [or Sources]." _____

All Client Filers must submit, with this form, a letter addressed to the Commission requesting an exemption and setting forth in detail why the applicable regulatory standard (19 NYCRR Part 938.4(a) or (b)) has been met.

- All information in support of the exemption request must be submitted together with the letter.
- The letter must also contain the following signed declaration: "I declare that the information contained in this application is true, correct, and complete to the best of my knowledge and belief."

All information submitted in support of an exemption will be made publicly available and discussed in the Public Session of the Commission's meeting. The only exception to this rule is information for which the Commission has granted a Client Filer's request for confidential treatment.

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**IMPORTANT INFORMATION FOR CLIENT FILERS SEEKING CONFIDENTIAL TREATMENT
OF INFORMATION SUBMITTED IN SUPPORT OF AN EXEMPTION**

Pursuant to 19 NYCRR Part 938.8, a request for confidential treatment of information may only be granted by the Commission upon a showing of particular circumstances, such as when the information would reveal an ongoing investigation by a governmental body that has not been made public, or information that, if revealed, would constitute an unwarranted invasion of personal privacy.

Please indicate if the Client Filer is requesting, pursuant to 19 NYCRR Part 938.8, that specific information submitted in support of the exemption be treated as confidential. _____

Procedure for a Client Filer Requesting Confidential Treatment of Certain Information.

1. In a separate letter, indicate precisely what material is the subject of the confidentiality request and set forth, in detail, why such material is entitled to be treated as confidential pursuant to Part 938.8.
2. Provide two copies of the material for which confidentiality is requested.
 - One copy of the material must be in an un-redacted form.
 - The second copy of the material must include any proposed redactions. The redacted version of the material is the version that, should the Commission grant the confidentiality request, will be made publicly available (together with the material for which no confidential treatment has been requested).

Generally, proposed redactions should only include personal information which, because of a name, number, symbol, mark or other identifier, can be used to identify a person, such as an address, telephone number, birth date, or social security number. If the Client Filer is unable to submit a redacted version that adequately preserves the requested confidentiality, provide a detailed explanation setting forth the reasons why the material in its entirety should remain confidential.

Impact of a Grant or Denial by the Commission of a Confidentiality Request.

- If the Commission *grants* the confidentiality request, the material that is the subject of the request will be considered by the Commission in an Executive Session that is closed to the public. All other material, and the Client Filer's application for an exemption from the source of funding disclosure requirements as a whole, will be made publicly available and considered by the Commission in a Public Session.
- If the Commission *denies* the confidentiality request, the Client Filer has two options. Indicate below whether the Client Filer elects Option A or Option B (*choose only one*):

(A) The material that is the subject of the confidentiality request that was rejected by the Commission will remain confidential and will not be considered by the Commission when evaluating the application for exemption. _____

or

(B) The material that is the subject of the confidentiality request that was rejected by the Commission will be made *publicly available, in an un-redacted and complete form (or with redactions made by the Commission in its discretion)*, and will be considered by the Commission in the Public Session when evaluating the application for an exemption. _____



Albany UPDATE

NEW YORKERS FOR CONSTITUTIONAL FREEDOMS

PO Box 107
Spencerport, NY 14559-0107

Ph. 585-225-2340
info@AlbanyUpdate.com

July 13, 2015

Ms. Letizia Tagliafierro, Executive Director
New York State Joint Commission on Public Ethics
540 Broadway
Albany, NY 12207

RECEIVED JUL 13 2015

HAND DELIVERED

Re: Request for Exemption from Donor Disclosure Requirements

Dear Ms. Tagliafierro:

This correspondence is respectfully submitted in support of the application made by New Yorkers Constitutional Freedoms ("NYCF") for renewal of our existing exemption from the large donor disclosure requirements set forth in the Public Integrity Reform Act of 2011 (the "PIRA") and its accompanying regulations.

In 2013, New Yorkers for Constitutional Freedoms applied to the Joint Commission on Public Ethics ("JCOPE") for an exemption from the PIRA requirement that the identities of large donors be publicly disclosed. At its January 28, 2014 meeting, NYCF's application was considered by JCOPE and was not accepted. JCOPE notified NYCF of the denial of our application by letter dated April 4, 2014. On July 11, 2014, following a timely appeal, Judicial Hearing Officer George C. Pratt reversed JCOPE's decision and granted the requested exemption. On July 29, 2014, JCOPE notified NYCF that our exemption would extend through December 31, 2014, and added that any application for a renewal exemption would be due no later than July 13, 2015. This correspondence is submitted in accordance with the instructions set forth in that July 29, 2014 letter.

Legislative Law § 1-h(c)(4)(ii) requires certain qualifying lobbyists to "report to the commission the names of each source of funding over five thousand dollars from a single source that were used to fund the lobbying activities reported and the amounts received from each identified source of funding." However, Legislative Law § 1-h(c)(4) includes various exemptions from its donor disclosure requirement. One such exemption is granted to:

any corporation registered pursuant to article seven-A of the executive law that is qualified as an exempt organization by the United States Department of the Treasury under I.R.C. § 501(c)(4) and whose primary activities concern any area of public concern determined by the commission to create a substantial likelihood that application of this disclosure requirement would lead to harm, threats, harassment, or reprisals to a source of funding or to individuals or property affiliated with such source, including but not limited to the area of civil rights and civil liberties and any other area of public concern determined pursuant to regulations promulgated by the commission to form a proper basis for exemption on this basis from this disclosure requirement.

NEW YORKERS FOR CONSTITUTIONAL FREEDOMS

The PIRA further provides that JCOPE “shall promulgate regulations to implement these requirements.” The regulations promulgated by JCOPE in this regard are set forth at 19 NYCRR 938.4(b), which states that JCOPE “shall grant an exemption to disclose all Sources of Contributions to a Client Filer, if (i) the Client Filer has exempt status under I.R.C. §501(c)(4); and (ii) the Client Filer shows that its primary activities involve areas of public concern that create a substantial likelihood that disclosure of its Source(s) will cause harm, threats, harassment or reprisals to the Source(s) or individuals or property affiliated with the Source(s)” (emphasis added).

New Yorkers for Constitutional Freedoms is exactly the kind of organization that the Legislature intended to exempt from the donor disclosure requirements set forth in PIRA. NYCF is a nonprofit advocacy organization under Section 501(c)(4) of the Internal Revenue Code. Founded in 1982, NYCF has lobbied the New York State government regarding matters of concern to the evangelical Christian community for more than three decades. NYCF was actively involved in opposing the legalization of same-sex “marriage,” and continues to take a lead role in promoting pro-life policies in New York. NYCF’s work involves “areas of public concern that create a substantial likelihood that disclosure of” our large donors “will cause harm, threats, harassment or reprisals” to said large donors (*see* 19 NYCRR 938.4(b)).

An analysis of the factors to be considered by the Commission in deciding an exemption application clearly shows that NYCF is entitled to a donor disclosure exemption. The factors to be considered include evidence of harm, threats, harassment, or reprisals directed at the organization or its donors; the level of severity of such incidents; whether or not a pattern of threats or manifestations of public hostility exists; “[e]vidence of harm, threats, harassment or reprisals directed against organizations or individuals holding views similar to those” of the organization; and the potential economic impact of disclosure upon the organization and its donors (*see* 19 NYCRR 938.4(a)). New Yorkers for Constitutional Freedoms is no stranger to threats and harassment. Harassing phone calls and threats are not uncommon for our organization. Specifically, the undersigned has experienced threats and attempted acts of violence against members of his family due to NYCF’s political stances. One New York trial judge recognized the sensitive nature of our work when he allowed the undersigned not to disclose a home address in connection with a NYCF lawsuit that followed the legalization of same-sex “marriage” in New York.

There is clear and convincing evidence, both here in New York and in other states, that organizations and individuals and donors who oppose abortion and same-sex “marriage” have experienced reprisals. One example involves California’s 2008 marriage amendment, Proposition Eight. Donors who supported Proposition Eight were subjected to reprisals including boycotts of their employers and businesses, street protests, and pressure to resign from their jobs. In one particularly egregious incident, same-sex “marriage” supporters protested outside a family-owned restaurant because a 67-year-old restaurant employee had donated \$100 to support Proposition Eight; the employee took a leave of absence due to concerns regarding the harassment. Furthermore, opponents of Proposition Eight placed maps on the Internet identifying individuals who donated to Proposition Eight and providing those individuals’ employers and addresses. These maps were used to harass and retaliate against pro-traditional-marriage donors from around the country, including donors from here in New York. Other forms of retaliation against Proposition Eight supporters have included trespassing, vandalism, theft, vulgarity, harassing phone calls, racial and religious slurs, arson, threats of violence, and assault and battery (*see* <http://www.heritage.org/research/reports/2009/10/the-price-of-prop-8>). Due to the pervasive nature of this behavior, organizations opposing same-sex “marriage” have made efforts to shield the identities of their donors from disclosure. Concerns about reprisals against traditional marriage advocates have taken on a new urgency in light of the domestic terrorist attack that occurred at Family Research Council’s Washington, DC office in August 2012; that

ideologically-motivated attack resulted in the non-fatal shooting of security guard Leo Johnson and gave rise to a 25-year prison sentence for the attacker (see <http://www.politico.com/story/2013/09/frc-shooter-sentenced-to-25-years-97069.html>).

Here in New York, advocates of traditional marriage have experienced a similar pattern of harassment. One such pattern of harassment has been directed at Sen. Rev. Ruben Diaz (D-Bronx), a frequent NYCF ally, due to his outspoken opposition to marriage redefinition. According to Sen. Diaz, several days prior to a scheduled pro-traditional-marriage rally in 2011, an individual tweeted a comment expressing a desire to commit an act of sexual violence upon the Senator's daughter, videotape the act, and display the video to Sen. Diaz (see <http://www.rubendiaz.com/viciousfaceoftolerance.html>). Sen. Diaz attributed this tweet and other harassment to "opponents of [his] upcoming May 15th Rally to Protect Marriage in New York State" and indicated that this particular tweet had been reported to law enforcement. On June 1, 2011, the New York *Daily News* reported that Sen. Diaz "said he and his family have received death threats due to his vocal stance on keeping gay marriage unlawful"; Sen. Diaz indicated that those threats were reported as well (see <http://www.nydailynews.com/new-york/bronx/same-sex-marriage-foe-state-sen-ruben-diaz-family-hit-death-threats-stance-issue-article-1.130499>).

In regard to the abortion issue, attacks on pro-life individuals are, sadly, not as rare as might be hoped. In 2009, pro-life activist James Pouillon was gunned down while peacefully demonstrating against abortion (see <http://www.lifenews.com/2010/09/14/state-5455/>). Other peaceful pro-life demonstrators have had firebombs thrown at them (see <http://www.catholicnewsagency.com/news/police-response-to-firebomb-attack-on-pro-life-demonstrator-criticized/>), while other pro-life groups have expressed concern regarding donor harassment (see <http://www.voicescarryblog.com/quit-harrassing-sd-pro-life-donors/>). In the recent past, an individual in Illinois who was accused of "swerving his car at a teenaged sidewalk counselor as he exited the parking lot of Planned Parenthood" pleaded guilty to a lesser offense (see <http://www.lifenews.com/2013/08/27/pro-choice-man-pleads-guilty-in-case-of-swerving-car-at-pro-lifer/>). Also, a peaceful pro-life demonstrator in Toronto was reportedly attacked and beaten by a knife-wielding assailant; the assailant was arrested and charged with three counts of assault (see <http://www.lifesitenews.com/news/pro-life-activists-knifed-severely-beaten-during-attack-by-knife-wielding-m>).

The analysis set forth in Judicial Hearing Officer George C. Pratt's 2014 decision provides additional support for NYCF's application for an exemption renewal. Judge Pratt's decision stated, in pertinent part, that NYCF

provided "specific evidence" of many and severe incidents extending over a period of years that show a "pattern of threats" and "manifestations of public hostility" to [NYCF's] supporters and to others holding similar views because of [our] religious-based opposition to abortion and same-sex marriage. This uncontroverted and unchallenged evidence fully satisfies [JCOPE's] regulations, and when evaluated realistically, the evidence in the record shows that there was 'a substantial likelihood of harm, threats, harassment [and] reprisals..."

(July 11, 2014 decision at pp. 7-8.) Judge Pratt noted that the sponsors' memorandum in support of the PIRA reflected a legislative intent for organizations like NYCF to receive exemptions from donor disclosure. The sponsors' memorandum states that organizations working in "the area of 'civil rights and civil liberties'... are expected to qualify for such an exemption... Among other issues included in this area, organizations whose primary activities focus on the question of abortion rights, family planning, discrimination or persecution based upon race, ethnicity, gender, sexual orientation or

religion, immigrant rights, and the rights of certain criminal defendants are expected to be covered by such an exemption." NYCF has advocated—and continues to advocate—regarding legislation that addresses several of these topics. Later in his decision, Judge Pratt added that "an exemption to [NYCF] gives proper deference to the constitutional requirement to protect the First Amendment rights of citizens to express their views on controversial issues by providing financial support to organizations that further their favored causes." *Id.* at 8.

New Yorkers for Constitutional Freedoms' claim of entitlement to a donor disclosure exemption was a strong one when our original application was submitted, and it remains strong today.

In sum, NYCF satisfies the requirements set forth in the PIRA and its accompanying regulations, is legally entitled to an exemption from donor disclosure requirements, and requests that JCOPE grant a renewal of our existing exemption at its earliest possible convenience.

Pursuant to instructions set forth on the Source of Funding Exemption Instruction Form, I declare that the information contained in this application is true, correct, and complete to the best of my knowledge and belief.

Thank you for your consideration.

Respectfully submitted,



Rev. Jason J. McGuire
Executive Director