

SUNDAY OPINION



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MULTI MILLION DOLLAR PAYOFF

How New York's most powerful politicians rake in money hand over fist from many of the state's most powerful business interests

Carl Heastie

BE OUR GUEST

BY WAYNE BARRETT

Andrew Cuomo stood outside his Albany office recently to do one of those seemingly impromptu yet carefully orchestrated press conferences in the hallway. He wanted to talk about eight bills he was introducing — and a gaggle, as opposed to a formal Red Room briefing, let him end it in a flash, with nary a word about the scandals scorching his administration.

He had walked the state to beat the drums for an historic state budget that delivered \$15 an hour and paid leave to low-wage workers, but he'd mostly muzzled himself on ethics for months, even as his two onetime legislative partners, the Senate's Dean Skelos and the Assembly's Shelly Silver, were sentenced to a combined 17 years in federal prison.

So, with 11 days left in the legislative session, the governor was offering a menu of options designed to suggest that he would selflessly shut down a pipeline of corporate campaign cash he's been living off of for years. He proposed abolishing New York's unique precursor to Citizens United, a 1996 loophole in state election law that allows limited liability companies to give as if they're human, far in excess of the \$5,000 aggregate limit on every other business entity, abiding instead by individual annual donor limits of up to \$150,000.

LLCs are a particular form of private company that allows individuals to avoid risk and conceal their ownership. They were legalized in New York in 1994, two years before the loophole decision that let the owner of multiple LLCs make contributions virtually without a cap. They soon evolved into a way for a small pool of wealthy donors, especially many in real estate, to funnel huge amounts to politicians they seek to influence. LLC contributions hit the \$20 million a year mark in 2014.

Cuomo's bills offer a series of alternative approaches: The Legislature could opt to shut down the pipeline altogether for every candidate seeking any state office, or

if that's too radical a shift, outlaw LLC donations in just gubernatorial races, affecting only himself and his putative 2018 opponents.

"I'm willing to go first," Cuomo bragged, "and I'm willing to go it alone." This masterstroke left him looking like he was falling on his sword when he was, even if inadvertently, plunging one down the throat of his competitors.

In 2015, Cuomo raised \$2.3 million from LLCs, almost as much as he collected from all other business, union, PAC and nonprofits combined, most of it after the Silver and Skelos prosecutions had established how disturbing a force they were in New York politics. He's cumulatively collected an astonishing \$25.6 million from them since 2007, making LLC the virtual state seal. It will grow in July, when Cuomo will file again, disclosing the LLC loot he's raised since January.

So, under his bill, he would go into the 2018 election with a multi-million-dollar LLC advantage over a Republican who couldn't legally solicit a dime of LLC largesse beyond the minimal limit that applies to all other companies. Cuomo made no mention of leveling the playing field by returning the munificence of LLC donors.

The governor's special allies in the Republican Senate, led by Skelos' successor, Majority Leader John Flanagan, dismissed Cuomo's eight bills in one swift swoop. They were so on cue that Flanagan got his rejection out before Cuomo did his impromptu press conference.

Just days before, Flanagan had consigned a bill killing the loophole introduced annually by Brooklyn Democrat Daniel Squadron to a committee whose chair is recovering from surgery, won't return this session and isn't

running for re-election.

The GOP's reflexive rejection could not have been a surprise to Cuomo. With the Assembly Democrats having already passed a reform bill, Cuomo's bold-sounding initiative appeared more performance than policy, targeting an audience of one, U.S. Attorney Preet Bharara, the Don Quixote of LLC reform.

To make one of Bharara's earliest Albany corruption cases, the FBI created a shell called Bedrock Capital LLC, whose very name reflected the role these entities now play in our politics. The sham business was then used to contribute and pay bribes to longtime Queens Assemblyman Anthony Seminerio.

Jeff Klein

EDITORIAL

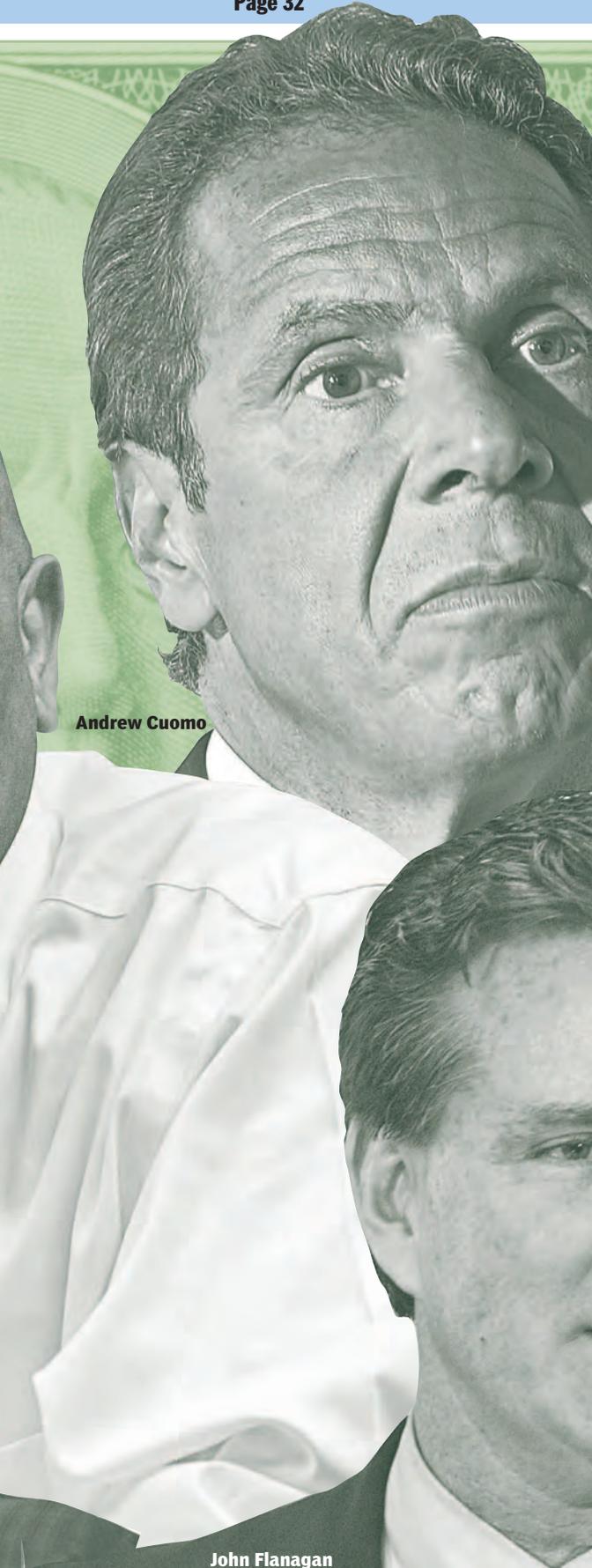
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Andrew Cuomo

John Flanagan

Bharara's twin-killing Skelos and Silver cases had a single chilling common thread: a mountain of LLC contributions to Skelos by a real estate behemoth, Glenwood Management, whose executives also created a consulting gig for Skelos' now-convicted son, and a hill or two in donations for Silver, who also banked \$700,000 in secret legal fees Glenwood steered him for no work.

Bharara, who named Glenwood's owner an unindicted co-conspirator, even made a 54-page list of its \$10 million in donations a trial exhibit, a laundering list of compromise that covered 2005 to 2015. Cuomo collected \$1.2 million of it.

Glenwood's top executive Charles Dorego testified that the company orchestrated this massive political operation to advance its primary interests, including "campaign-finance issues" and noting that the LLC contribution limit was "much higher than the corporate limit." Glenwood was dedicated to maintaining that special status though, as the judge in the Silver case, Valerie Caproni, put it: "I don't care what the Supreme Court says. Companies aren't people. They don't have states of mind."

Flanagan and new speaker Carl Heastie loomed awkwardly large on Bharara's Glenwood Gimme List, collecting sizable downpayments long before they had real power, with the Bronx Democratic Committee that Heastie controlled getting more than most local Democratic depositors, and a mere two-term Flanagan bankrolled in his only competitive race in 2006.

Bharara's current corruption probes are also focused on LLC contributors, the one common thread that binds Cuomo and Mayor de Blasio. Cuomo's longtime top aide Joe Percoco is a Bharara target because he and his wife took consulting gigs involving three LLCs that did state business, funneled contributions to the governor's campaign and retained lobbyist Todd Howe, who was until his post-subpoena ban so wired into Cuomo, he simultaneously had offices inside a State University facility and the governor's re-election headquarters.

One Percoco/Howe client, COR Development LLC, became the biggest central New York giver to Cuomo, tallying \$337,500, and giving \$25,000, for example, through an offshoot LLC formed three months before a 2015 contribution and out of business a few months later. Shortly after Percoco left Cuomo in January to go to work for Madison Square Garden, the governor dropped in on him to sign a bill legalizing mixed martial arts fighting, a boon to the Garden and to Zuffa LLC, the giant of the brutal "sport" that's given \$180,000 to a Cuomo once undecided on its merits.

De Blasio is a Bharara target because he gathered panting donors for a 2014 tutorial on how to airlift big checks into the rural far reaches of Putnam and Ulster counties, sometimes through LLCs, where Democratic Senate candidates can apparently only flower if fertilized by city unions and real estate wheeler-dealers. The only rationale for this circuitous route was that party committees like Putnam's can become way stations for contributions in excess of state limits, transferring it on to Senate campaigns, though coordinating such a scheme might be viewed by grand juries now looking at it as a felony.

One LLC that oddly rushed to the side of the Ulster Democrats with \$100,000 shortly before the November Senate showdown was 71-85 Lewis Avenue LLC, a Brooklyn developer registered at a small Williamsburg building where hundreds of Orthodox-tied companies conceal their ownership, an estimated one LLC per 2.5 square feet of space. The LLC itself was seeking a special permit and parking waiver from the de Blasio administration.

Who knew that the Brooklyn Orthodox, whose only senator is a Democrat who caucuses with the Republicans, cared so much about re-electing sheep farmer Cecilia Tkaczuk, a Democrat from remote Duanesburg? Everywhere Bharara lights a searching candle, LLCs beckon.

The loophole was invented by the state Board of Elections a year after George Pataki became governor and nearly two years after Silver became speaker in the mid-90s. Peter Kosinski, the Republican special counsel at the time, oversaw the drafting of the original resolution, which was approved by the two Republican and two Democratic commissioners, despite its apparent inconsistency with the 1974 election law that sought to strongly restrict business giving.

Kosinski is now the Republican co-chair, installed by Skelos in April 2015, shortly before the Senate leader was indicted. He had been working for Skelos when he left to rejoin the board. The day after he arrived, the four commissioners finally revisited the 1996 ruling, with Kosinski opposing any change and arguing that "our role is to administer the law, not make the law." He did not mention that in fact this ruling was a board attempt to administer the law, not a law itself, or that he was in fact a prime author of it.

Kosinski, who also deadlocked another vote this April, is protecting what the GOP feels is a logical board opinion, based on state law calling LLCs "unincorporated organizations," that happens to have a partisan benefit. The party is in the throes of an existential crisis culminating in November, when the prospect of a pro-Clinton wave in New York could end its last vestige of power, a Senate majority that already depends on Democratic cross-overs.

When Gov. Eliot Spitzer targeted LLCs in 2007, he traveled to the district of then-GOP leader Joe Bruno and charged: "Mr. Bruno, why did you say directly to me, we cannot survive without LLC money? Answer that question, senator." Like other business interests, LLCs pump many more dollars into Senate GOP coffers than assembly or senate Democrats, with Glenwood, for example, giving \$1.6 million to Skelos' committees over that 10-year Bharara period, several times what it gave to Silver.

It is difficult to see how access to this money pit will ever end, especially in a state capital where everything is a swap and the Democrats who talk reform appear unwilling to negotiate with Republicans who see it as an asset. Neither Cuomo nor Squadron answered Daily News questions about trying a bill that might be passed now, but would not go into effect until next year — meaning, one that would give Republicans the option of looking like they want cleaner government without being forced to disarm in this election cycle. It's a thin reed, but that's better than parched earth.

The Republicans argue that unions are allowed to max out through multiple affiliates and say if we're going to shut down LLCs, let's do the same for labor. It's a strained comparison, but, in fact, the city's campaign finance system, one of the best in the country, does restrict union affiliate giving.

There are those who say that Cuomo is such a genius at massaging the Legislature that he can make this happen if he really wants to.

Does he want to? Cuomo once said we shouldn't even be calling the LLC exception a "loophole," explaining "these are the laws," exalting a legal interpretation by the only state board whose commissioners are handpicked by party leaders.

The governor loves to talk about the Empire State as a pioneer, just as his father did. But we are number one now in slush, the capital of collusion, a government funded by sometimes-anonymous individuals hiding behind state-sanctioned masks. And Squadron says now that LLC reform is part of the end-of-the-session negotiations.

Challenging the loophole might be reaching for an "unreachable star," as our Man of La Mancha might put it. But the Albany gang ought to understand that if they don't, Bharara will.

Barrett is an investigative journalist. His wife is an aide to Gov. Cuomo on nonprofit policy. This article was produced with support from a grant by the Urban Reporting Program of the CUNY Graduate School of Journalism.