

SKIRTING STATE LAWS

Percoco bribery trial shows how easily they're evaded

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Campaign contributions to “reward” politicians. Shell companies to hide donations. Personal email accounts to avoid disclosure. A caution not to register as a lobbyist, so as to elude oversight.

All are ways to use loopholes and skirt state laws in New York and they have been laid out in testimony in the corruption trial of Joseph Percoco, former top aide to Gov. Andrew M. Cuomo, critics say.

As the trial finished its third week in the federal courthouse in Manhattan, testimony from public officials, emails from alleged co-conspirators and testimony by the prosecution’s key witness have demonstrated that those who want to can sidestep New York’s election, ethics and lobbying statutes — despite lawmakers’ claims to have toughened the laws.

It’s all legal, for the most part, and government watchdog groups say that’s a scandal in itself.

What’s legal is ‘outrageous’

“What is legal in our state is outrageous to the average New Yorker,” said Susan Lerner, executive director of Common Cause, which monitors state government. She said the Percoco trial, along with upcoming ones involving former powerful legislators Dean Skelos and Sheldon Silver, illuminate the “sad morass of the Albany game,” which she defined as the “pervasive power of money to buy access” and “game the system.”

Percoco, 48, has been accused of using his influence to rig lucrative state construction contracts for campaign contributors who, in turn, paid him bribes. He is alleged to have conspired with two executives of Syracuse-based COR, a development company, and one from Connecticut-based Competitive Power Ventures, which sought to build a power plant in the Hudson Valley.

All have pleaded not guilty.

Lawyers for Percoco and the other defendants haven’t argued that the payments didn’t occur; they say they were legal while Percoco was working temporarily as a private consultant and as manager of Cuomo’s re-election campaign.

Cuomo hasn’t been accused of wrongdoing; he has said he had no knowledge of the alleged scheme.

Knowing ways around law

Regardless of the eventual jury verdict, evidence and testimony produced by prosecutors show that many involved in the alleged scheme knew the laws and how to get around them.

Todd Howe, a defendant who has already pleaded guilty and is the prosecution’s star witness, testified that he coached COR officials on how to be “strategic” about “who you reward” with campaign donations and “get the most leverage” by focusing on certain politicians.

Defense lawyers are claiming that Howe, who was a deputy to Cuomo when the latter was federal housing secretary and is alleged to be the conduit between Percoco and the developers, is a serial liar whose word cannot be trusted. On Feb. 9, during he trial, he was arrested for violating terms of his plea-bargain deal with prosecutors.

When COR executives wanted to donate to Cuomo’s campaign, Howe said, he directed them to give \$25,000 apiece through five subsidiaries.

“I told him to use ones that don’t include the name ‘COR’ in them,” Howe testified. The reason for masking the donations? “The media would make a heyday out of the fact that COR had given \$125,000 and now was doing state work.”

Judge Valerie Caproni interrupted at one point to tell jurors such donations are legal under state law.

Long before the trial, the so-called LLC loophole was considered one of the most egregious flaws in New York’s



Joseph Percoco, an ex-aide to Cuomo, is charged with corruption.



Todd Howe, the prosecution's star witness, has pleaded guilty.

The courtroom drama demonstrated the occasional use of private email accounts to discuss state business and showed Percoco, now back on the state payroll, allegedly pressuring other Cuomo officials to rearrange a 2015 trip to Syracuse so the governor could meet COR executives.

One economic-development aide in the administration testified that his job was meeting with lobbyists and business executives to hear project proposals, part of what he called the “Albany game.”

“And your dealing with lobbyists, and like Mr. Howe and others, that was part of the Albany process, something that you characterize as the Albany game, correct?” Milton Williams, one of the defense attorneys, asked Andrew Kennedy, a former assistant secretary for economic development.

“Correct,” Kennedy replied. “My job was to meet with lobbyists and business executives that had projects that were proposing to create jobs and investments throughout New York State. So my calendar was full of meetings with lobbyists and businesses.”

campaign-finance laws, according to watchdogs. The reason it’s called a loophole is that the state Elections Board treats limited liability corporations as if they were individuals, not companies, and, therefore, doesn’t impose a corporate giving limit.

“New York’s LLC loophole is a huge incentive for corruption,” said Blair Horner of the New York Public Interest Research Group. Cuomo and other lawmakers previously have called for ending the loophole, but have not followed through.

But the trial didn’t just spotlight campaign-finance laws.

Prosecutors submitted evidence showing Percoco allegedly kept his state ID card and used it to enter government offices while working on the governor’s re-election campaign, making hundreds of phone calls while there. Government offices are not supposed to be used for campaigns.

Howe testified that he decided not to register as a lobbyist with the state ethics commission — as is required — because it might have “curtailed” his activities.

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