

## ABC ENDORSES CARL PALADINO FOR NEW YORK STATE GOVERNOR

On Thursday, August 26th your State Board of Directors met at the Syracuse office. During this meeting, a motion was made and seconded to endorse Carl P. Paladino for Governor of New York State. The debate was spirited. When the question was called, there was overwhelming acceptance of the motion. A press event announcing Paladino's endorsement took place on August 31st at ABC's Syracuse offices.

Mr. Paladino addressed the Board two months ago. His no nonsense approach to government is embodied in his campaign literature where he is quoted:



*"I will give something back to the people who have been so good to my family and me. We will restore common sense and business sense with transparency to insure a government of the people – not of the union bosses or special interests. I will drive the political hacks from office and bring real reform to Albany."*

Buffalo native Carl Paladino is a graduate of St. Bonaventure University and Syracuse University Law. After serving as an officer in the US Army, Carl practiced law in New York courts for fifteen years.

Across 40 years in private business, Carl has built a real estate development company which, in some of the most difficult economic periods of our life time, has been the only private company building in Buffalo. Today, he directly employs hundreds of workers and provides work to thousands across New York State. His company controls a half billion in assets and, with a personal worth of \$150 million, Carl has pledged to spend up to \$10 million of his own money in his campaign for governor of New York

### PALADINO'S PROGRAM FOR NY

#### TAXES

New Yorkers are taxed more than any other Americans and Albany makes it worse every year. As Governor, Carl Paladino will cut taxes by ten percent in the first six months of his administration. And to keep taxes low long after he's gone home, Carl will change the law and require a super majority vote of both Houses - 60% - for the State Legislature to raise our taxes.

#### SPENDING

Spending is far too high in Albany because the ruling class is out of control. A successful businessman, Carl Paladino will cut state spending by 20% in his first year as Governor. He will evaluate every department and agency of state government for efficiency, effectiveness and necessity - and cut programs not directly benefiting the taxpayer.

#### JOBS

New York lost 247,000 private sector jobs last year but Albany has done nothing about it - except hire more bureaucrats. Carl Paladino knows only cutting spending and taxes creates jobs. He'll give New York manufacturers a tax holiday to reinvest profits and create good paying jobs. A Paladino administration would be pro-business - keeping companies in New York and attracting new ones.

#### MEDICAID

Today, non-New Yorkers ride the backs of our taxpayers; they move here and lay down on our welfare rolls immediately. No longer. As Governor Carl Paladino will require a minimum one-year residency in New York before someone is eligible for Medicaid and welfare benefits. And he'll cut wasteful Medicaid options that make ours the most expensive in the nation - and save New Yorkers \$10 billion annually.

#### REFORM

As Governor, Carl Paladino will turn Albany upside down and reform the Legislature. That means 8-year term limits on the elected. No more full-time pensions and lifetime health care for our part-time Legislators. No more automatic pay raises; legislators will vote to raise their pay and face the taxpayers. And Carl will require FULL disclosure from ALL Legislators of ALL incomes to end ALL conflicts of interest.

# NYS CONSTRUCTION FAIR PLAY ACT

On Friday, August 27, 2010, Governor David Paterson signed into law the “New York State Construction Fair Play Act” (*Chapter 418 of the Laws of 2010*), which establishes a presumption that all workers at a construction site are “employees” - and therefore a contractor or subcontractor is responsible for the payment of wages, worker’s compensation, benefits, etc.. The provisions of this new law become effective on **October 23, 2010**, at which time the State Department of Labor will be authorized to enforce against violations of this law.

Initially, the bill provided that an independent contractor or a contractor or subcontractor could only avoid the employee presumption if they are able to demonstrate:

- (a) the individual is free from control and direction in performing the job, both under his or her contract and in fact;
- (b) the service must be performed outside the contractor’s usual course of business; and
- (c) the individual must be customarily engaged in an independently established trade, occupation, profession, or business that is similar to the service at issue.

While this test – including the very problematic (b) - remains in the law, the Associated Builders and Contractors - Empire State Chapter, working with a coalition of construction industry organizations, was successful in securing significant amendments that would exempt legitimate independent contractors from the “employee” presumption. Specifically, pursuant to the new law, a business entity will be considered an independent contractor if it can satisfy twelve criteria – operating free from a contractor’s control; substantial investment in capital beyond tools and a personal vehicle; offering services to the general public on a continuous basis; and other factors indicative of an independent business.

In addition to any civil and criminal penalties already provided in statute, this law establishes a new civil fine for a first violation of up to \$2,500 for each “misclassified” employee and up to \$5,000 for each subsequent violation in a five year period. Firms will also be subject to debarment from future public works contracts.

ABC members should also be aware that the new law requires contractors to post on each construction site a notice, which may be downloaded from the State Department of Labor’s website, that “...describes the responsibility of independent contractors to pay taxes required by state and federal law, the rights of employees to workers' compensation, unemployment benefits, minimum wage, overtime and other federal and state workplace protections, and the protections against retaliation and the penalties in this article if the contractor fails to properly classify an individual as an employee. This notice shall also contain contact information for individuals to file complaints or inquire with the commissioner about employment classification status.” Failure to post the notice is subject to a fine of up to \$1,500 for a first violation and up to \$5,000 for repeat violations within a five year period.

While we continue to believe the new law has several notable flaws, including that the State had adequate enforcement authority under existing Federal and State laws to enforce against employee misclassification, we also believe that ABC members – who have not been willful violators in the past - will *not* be greatly impacted by this new law if the Department of Labor applies it fairly. We have already urged the Governor’s Office to ensure that the Department does just that. We will continue to monitor implementation of this new law, and invite you to share any issues or questions you may have.

## **FROM ABC NATIONAL....**

### **One click! That is all it takes to have your voice heard.**

By visiting <http://republicanwhip.house.gov/YouCut/> you can help prohibit mandated project labor union agreements that increase government construction costs with the click of a button.

In February of 2009, the President issued an Executive Order encouraging the use of "project-labor agreements" on federal construction projects in excess of \$25 million. According to the Administration, "A project labor agreement is a pre-hire collective bargaining agreement with one or more labor organizations that establishes the terms and conditions of employment for a specific construction project." Numerous studies indicate that these agreements increase costs by between 10 and 20 percent. Based on information provided by the Administration in terms of the scope of the Executive Order, project labor agreements could be applied to some portion of large construction contracts which in 2008 totaled \$31,685,574,596. As a result, increased costs to taxpayers could be in the hundreds of millions of dollars.

YouCut—a first-of-its-kind project—is designed to defeat the permissive culture of runaway spending in Congress. It allows you to vote, both online and on your cell phone, on spending cuts that you want to see the House enact.

### **ABC's Free Enterprise Alliance "Back to Work" TV ad**

ABC's Free Enterprise Alliance has created a "Back to Work" TV ad that will be running on the CNN Airport Network in airports across the country. The ad will run from Thursday, September 2 through Labor Day weekend and until Sunday, September 12 (the day before Congress reconvenes). The theme of the ad is in direct correlation with our "Halt the Assault" campaign telling Washington that increasing taxes and creating more regulations on small businesses is detrimental to job creation and economic growth in America. The ad urges viewers to tell their representatives in Washington to Halt the Assault on small business.

The ad can be view on YouTube: <http://www.youtube.com/watch?v=4KtHKQJecWs>

### **Sharpen Your Leadership and Management Skills at the 2010 ABC Institute**

The 2010 ABC Institute for Leadership and Professional Development, Nov. 9-11 in Rancho Mirage, Calif., will feature more than 50 concurrent sessions, including special training for ABC contractor members that will offer tips to become more effective in leadership and management roles.

Topics for construction executives and contractors include: crucial conversations for building effective teams; how to implement a diversity plan to be more competitive in business; how to apply lean construction; green building; social media for contractors; labor law and PLA updates; and techniques for improving productivity.

In addition, you will hear from industry experts, policy specialists and professional leaders on how to address day-to-day challenges, responsibilities and opportunities. ABC members also will be able to take advantage of networking opportunities to exchange strategies and thoughts with fellow participants and discover new ideas to implement in their offices. For more information, visit [www.abc.org](http://www.abc.org)

# AROUND THE EMPIRE STATE CHAPTER

## ROCHESTER:

The Rochester Region has formed a committee – The Rochester Joint Organization Construction Calendar Committee (RJOCC) – whose initial purpose is working together to cross promote programs and training in order to pool resources and offer increased member benefits to our respective members / clients in the most efficient and cost effective way. Please visit [www.my.calendars.net/rjocc](http://www.my.calendars.net/rjocc) to view our live joint listing of upcoming programs and training opportunities.

This August was also our annual golf outing that netted just over \$10,000! Proceeds to the 50 / 50 (won by Tim Torrey of Enterprise) went to SADS. Other winners included Villager Construction as the winning foursome, Volvo Rents who took second place and Marc LeBeau of Verizon who won the reverse club raffle! Thanks to all who supported and come out for this event.



**ABC Rochester's Marcy Miller with Tim Torrey of Enterprise**



**Marc LeBeau and Mike Tambe**



**Rochester Golf Tournament**

**(From L—R)**

**Matt Bryant and Reggie Meeks**

# AROUND THE EMPIRE STATE CHAPTER

## Eastern New York:

For the first time on July 24th, the Eastern New York Region of ABC sponsored "A Day at The Races" at the Saratoga Flat Track. This inaugural event was a success. We had 21 members and staff from two different ABC Regions (ENY and Long Island/Metro) attend this event. We were able to donate \$700 to the State PAC from this event. Eastern New York and Long Island Metro regions will now make this an annual event. We plan to start promoting the "2011 Day at The Races" in Mid-January.



## Long Island/Metro:

Long Island/Metro celebrated their first graduation ceremony with 24 attending on August 5<sup>th</sup>, with a buffet dinner at the Holiday Inn in Plainview. The graduates brought a guest and owners of companies were also there to celebrate. It was a great evening!

## BUFFALO:

The Western New York region's endorsement committee just completed their candidate interviews with 10 individuals running for positions in the New York State Senate and Assembly. The committee is expected to make a media announcement of the endorsed candidates within the next two weeks. In June, all candidates were given the opportunity to fill out the ABC questionnaire. Upon review of the questionnaire, the candidates were invited to participate with a group interview comprising of ABC WNY Region members.

Members and staff from the region recently attended NYS Senator Michael Ranzenhofer's golf event dinner in Clarence, NY. ABC members and staff were invited and attended US Congressman Chris Lee's Town Hall Meeting pertaining to his 5-point job plan for small business and manufacturing.

## Central New York:

The Central New York region recently hosted its annual golf tournament. The winners were:

### 1<sup>st</sup> place team

Mitch Carmody (M.A. Bongiovanni, Inc.), A.J. McGinn, (M.A. Bongiovanni, Inc.), Jim Vivelò, (Priority Payment Systems, Inc.).

Longest Drive: Brandon Collins, Demco NY Corp, Closest to the Pin: John Valenti, Atlas Fence, Inc., Skins Winner: Gene Armani, Lifetime ABC Member and Putting contest winner: Charles Buckley, Davis Ulmer, Inc.

Many thanks to ABC member Bresee Chevrolet for sponsoring the Make A Wish Wager and raising \$328 for the foundation, which will be matched by the CNY ABC Regional Council!

## 2010 Empire State Chapter Board of Directors

### **Chairman**

James L. Collins, Jr. - Milherst Construction, Inc.

### **Chairman Elect**

Dave Rakvica - The Delaney Group

### **Treasurer**

Kenneth Gardiner - Dannible & McKee, L.L.P.

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### **Central New York Representatives**

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Larry Ike- Structural Associates

Steve Tallman - TAG Mechanical

Ken Gardiner- Dannible & McKee, LLP - Treasurer

### **Eastern New York Representatives**

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Chris Tague-, Cobleskill Stone Products, Inc.

Dave Rakvica- The Delaney Group

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Ed Tyrrell-Core Electric

### **Rochester Representatives**

Floyd Rayburn - F.G. Rayburn Mason Contractors, Inc.

Roger Gutheil - GMR Associates

Joel DiMarco-DiMarco Constructors

### **Western New York Representatives**

James Collins, Jr.-Milherst Construction CHAIRMAN

Dave Resetarits - Resetarits Construction Corporation

Dave Visone - Visone Construction, Inc.

### **EMPIRE STATE CHAPTER CONTACT INFO**

New York State Chapter Office (315) 463-7539

Central New York Region (315) 463-7539

Eastern New York Region (518) 449-1062

Long Island/Metro Region (631) 738-2086

Rochester Region (585) 315-9840

Western New York Region (716) 832-0777



### **EMPIRE STATE CHAPTER DATES TO REMEMBER**

**5:30 p.m. Thursday, September 9, 2010**  
**Metro/LI Member Meeting Nyack Location**  
**Best Western Nyack on the Hudson**

**11:30 a.m. Friday, September 10, 2010**  
**Metro/LI Member Meeting Plainview**  
**Plainview Holiday Inn**

**3:00 p.m. Saturday, September 18, 2010**  
**WNY ABC Picnic**  
**Chestnut Ridge Park**

**7:30 a.m. Monday, September 20, 2010**  
**Rochester "Meet the Candidates"**  
**Steamboat Landing**

**3:00 p.m. Tuesday, September 21, 2010**  
**Rochester Quarterly Apprenticeship**  
**Seminar**

**Noon—Friday, September 24, 2010**  
**WNY Legislative Luncheon**  
**Chef's Restaurant**