



Summary of Final Board Determination

Mark Escoffery-Bey

Candidate, 2013, Borough President, Bronx

Program participant: \$222,408 in public funds received

1. Failing to report bank and merchant accounts used for campaign purpose **\$750**

Campaigns are required to establish and maintain a separate campaign bank account and to report all bank, merchant, and depository accounts used for campaign purposes. *See* Admin. Code §§ 3-703(1)(c), (d), (g), (6), (10), (11); Board Rules 1-11(d), 2-06, 4-01(f).

The Campaign submitted a deposit slip for a Capital One account and a payment receipt for an RCI Elite Rewards MasterCard credit card account, neither of which it reported as a campaign account. Furthermore, bank statements show fee payments to an unreported Authorize.Net merchant account.

The Board assessed a penalty of \$750 for these violations.

2. Failing to provide bank/merchant account statements **\$500**

Campaigns are required to provide copies of all bank and merchant account statements for accounts used for each election. *See* Admin. Code §§ 3-703(1)(d), (g), (11); Board Rule 4-01(f).

The Campaign failed to submit statements for its Capital One checking account for January 2014, and from March 2014 through the present. It failed to submit statements for the Capital One bank account, the RCI Elite Rewards MasterCard account or the merchant account with Authorize.Net.

The Board assessed a penalty of \$500 for these violations.

3. Failing to report transactions **\$313**

Campaigns are required to properly report all financial transactions to the Board. *See* Admin. Code §§ 3-703(1)(d), (g), (6), (11), (12); Board Rules 1-09, 3-03(c), (d), (e), 4-01.

The Campaign failed to report 29 expenditures totaling \$15,479.68, and an \$85 contribution. It incorrectly reported paying an individual \$293.56 as an expenditure, when it should have reported paying him \$200 for services and \$93.56 to reimburse an advance for food. Because of this misreporting, the vendor who provided the food to the Campaign was not reported.

The Board assessed a penalty of \$313 for these violations.



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4. Failing to demonstrate compliance with reporting requirements for disbursements \$250

Campaigns are required to demonstrate compliance with the reporting requirements and are required to provide bank records, including bank statements and deposit slips. *See* Admin. Code §§ 3-703(1)(d), (g), (6), (11), (12); Board Rules 1-09, 3-03(c), (d), (e), 4-01.

The Campaign reported \$264,627.14 in disbursements but the bank statements the Campaign has provided show \$275,573.43 in disbursements, a difference of \$10,946.29 (a variance of 4.14%).

The Board assessed a penalty of \$250 for this violation.

5. Failing to demonstrate compliance with subcontractor reporting and documentation requirements \$400

If a campaign makes an expenditure to a vendor that relied on subcontractors to provide the goods or services to the campaign, and the cost of the subcontracted goods or services provided by a single subcontractor exceeds \$5,000, the campaign must report, in addition to the expenditure, the name and address of the subcontractor, the amount(s) of the expenditure(s) to the subcontractor, and the purpose(s) of the subcontracting. The candidate must also obtain and maintain documentation from each vendor that used subcontractors. *See* Admin. Code §§ 3-703(1)(d), (g), (6), (11); Board Rules 3-03(e)(3), 4-01(h).

The Campaign paid \$10,700 to Caribbean Media Group, Inc., \$17,083.91 to Mailing Inc., \$15,250 to Ric Furr Sports Enterprise, and \$10,185 to TrueFun Corp., but failed to either report subcontractors used by these vendors or submit completed Subcontractor Forms.

The Board assessed a penalty of \$400 for these violations.

6. Accepting contributions from corporations, limited liability companies, or partnerships \$10,750

Campaigns may not accept, either directly or by transfer, a campaign contribution or loan, or guarantee or other security for such loan, from any corporation, limited liability company (LLC), or partnership. *See* N.Y.C. Charter § 1052(a)(13); Admin. Code §§ 3-702(8), 3-703(1)(l); Board Rules 1-04(c)(1), (e), (g), 1-05. Creditors who extend credit beyond 90 days are considered to have made a contribution equal to the credit extended, unless the creditor continues to seek payment of the debt. Outstanding liabilities that are forgiven or settled for less than the amount owed are also considered contributions. *See* Board Rules 1-04(g)(4), (5).



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Documentation shows that the Campaign agreed to pay FMI, Inc. \$26,154, but failed to report or document any payment. Documentation also shows that the Campaign received services from the following vendors: 1) Community Newspaper Group, 2) Denver Media Service, and 3) Vertical Search Works. The Campaign failed to report or document paying these vendors, and therefore the services provided are in-kind contributions.

The Board assessed a penalty of \$10,750 for these violations.

7. Failing to report transactions \$600

Campaigns are required to properly report all financial transactions to the Board. *See* Admin. Code §§ 3-703(1)(d), (g), (6), (11), (12); Board Rules 1-09, 3-03(c), (d), (e), 4-01.

The Campaign agreed to pay Vote Bronx \$1,500, but reported paying only \$750. The outstanding \$750 amount is an in-kind contribution from Vote Bronx.

The Campaign purchased a photocopier and paid individuals to pass out flyers, but failed to report or document expenditures for printer paper, indicating that a third party provided the paper as an in-kind contribution.

The Campaign received the cellphone numbers for 31,000 voters, but failed to report paying for these numbers.

An individual made a payment to the Campaign's RCI Elite Rewards MasterCard merchant account, but the Campaign failed to report this contribution, or reimburse the individual.

The Campaign held two fundraising events for which it failed to report any expenditures, indicating that a third party made these expenditures.

The Board assessed a penalty of \$600 for these violations.

8. Failing to demonstrate compliance with intermediary reporting and documentation requirements \$100

Campaigns are required to report the intermediary for each contribution that was delivered or solicited by an intermediary. In addition, campaigns are required to provide a signed intermediary affirmation statement for each intermediated contribution. *See* Admin. Code §§ 3-703(1)(d), (g), (6), (11); Board Rules 3-03(c)(7), 4-01(b)(5).

The Campaign reported an intermediary for whom it failed to submit an Intermediary Statement.

The Board assessed a penalty of \$100 for this violation.



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9. Making cash expenditures greater than \$100 \$458

Campaigns are prohibited from making an expenditure greater than \$100 using cash. *See* Board Rules 1-08(i) and 4-01(e)(2).

The Campaign withdrew \$4,585 in cash to pay RC Print.

The Board assessed a penalty of \$458 for this violation.

10. Failing to demonstrate that spending was in furtherance of the campaign \$10,000

Campaigns are required to demonstrate that all spending was in furtherance of the campaign. *See* Admin. Code §§ 3-702(21)(a), (b); 3-703(1)(d), (g), (6), (11); Board Rules 1-03(a), 4-01(e).

The Campaign paid five individuals a total of \$77,000 for duplicative consulting activities. The consultants were all paid different wages, ranging between \$168 and \$535 per day. The Campaign failed to explain the discrepancy between the wage rates of the consultants and the need to have multiple consultants providing the same services during overlapping time periods. It also failed to submit associated documentation to illustrate the need for multiple consultants to coordinate volunteers.

The Campaign paid six individuals a total of \$19,480 to coordinate workers/volunteers. The Campaign failed to submit: 1) contracts for the coordinators, 2) wage records or volunteer lists for any workers under one of the individuals, 3) documentation, such as volunteer or worker lists with accompanying work product, or 4) explanations of why five coordinators were required to manage nine workers, and how the duties were assigned.

The Campaign paid an individual a \$1,000 daily wage rate to distribute literature for five days, which far exceeds the \$150 daily wage rate of six other campaign workers, who were paid for doing comparable work.

In addition, the Campaign purchased the following items totaling \$3,278.55, without demonstrating that they were in furtherance of the campaign: a wok, floor coverings, two water coolers, a laptop, a vacuum, a taping knife, a “mudpan” and a bucket. Finally, the Campaign purchased \$3,172.28 of office supplies that were shipped to the candidate’s business. The Campaign failed to demonstrate how these expenditures were in furtherance of the campaign.

The Board assessed a penalty of \$10,000 for these violations.



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11. Making impermissible post-election expenditures \$1,088

After an election and before repaying leftover campaign funds to the Board, participants may spend campaign funds only to pay campaign-related expenses incurred in the preceding election and for “routine activities involving nominal cost associated with winding up a campaign and responding to the post-election audit.” *See* Admin. Code §§ 3-702(21)(a)(8), 3-703(1)(d), (g), (6), (11), 3-710(2)(c); Board Rules 1-03(a), 1-08(b), 5-03(e)(2).

The Campaign made the following unreported payments to unknown payees: 1) \$360 on November 6, 2013, 2) \$2,275 on December 4, 2013, and 3) \$969 on December 5, 2013. In addition, it paid an individual \$750 on November 27, 2013. The Campaign failed to submit documentation demonstrating that these payments were for the election or “routine activities involving nominal cost associated with winding up a campaign and responding to the post-election audit.”

The Board assessed a penalty of \$1,088 for these violations.

12. Failing to respond to the Draft Audit Report \$22,240

Campaigns are required to maintain records, such as copies of checks, invoices, and bank records, to verify financial transactions reported in disclosure statements, and campaigns are required to provide such records to the Board upon request and to respond to specific questions regarding compliance with the Act and Rules. *See* Admin. Code §§ 3-703(1)(d), (g), (6), (11), (12), 3-708(5), 3-710(1); Board Rules 1-09(a), 4-01, 4-05(a). Candidates who fail to respond to the Draft Audit Report may be subject to a penalty of up to 10% of total public funds received. *See* Admin. Code § 3-711(2)(b).

The Campaign failed to respond to the Draft Audit Report.

The Board assessed a penalty of \$22,240 for this violation.