

## **Tracy L. Boyland CD #41 (2009)**

### **1. Corporate contributions**

**\$6,460**

Campaigns may not accept, either directly or indirectly, a campaign contribution, loan, guarantee or other security for such loan, from any corporation, *see* Admin. Code § 3-703(1)(l); Board Rule 1-04(e), or (after December 31, 2007) from any partnership, limited liability partnership (LLP), or limited liability company (LLC). *See* New York City Charter §1052(a)(13), Administrative Code §3-703(1)(l) and Rules 1-04(c),(e). Liabilities for goods or services which are forgiven, in whole or part, are in-kind contributions. *See* Admin. Code § 3-702(8); Board Rules 1-02 and 1-04(g). A debt owed by the campaign which is forgiven or settled for less than the amount owed is a contribution, unless the debt was forgiven or settled by a creditor who has treated the outstanding debt in a commercially reasonable matter. *See* Board Rule 1-04(g)(5).

The Campaign accepted a \$200 corporate contribution from Carl M. Jean OPM PC on March 26, 2009. The Campaign was notified on June 12, 2009, that it had until June 26, 2009 to refund this contribution; the contribution was refunded on June 25, 2009.

The Campaign submitted an invoice from Red Horse Strategies dated September 16, 2009, in the amount of \$6,085. The Campaign reported a check for \$6,085 to Red Horse, but the check never cleared. The Campaign reported a \$6,085 outstanding liability to Red House [sic], but did not submit documentation that this liability is still outstanding. Accordingly, it is deemed a prohibited LLC contribution from Red Horse, which is also in excess of the \$2,750 contribution limit. *See* Admin. Code §§ 3-702(8), 3-703(1)(f); Board Rules 1-04(c)(1), 1-04(h), 1-07(c).

The penalty for accepting a timely-refunded corporate or LLC contribution is the amount of the contribution or \$125, whichever is smaller. The penalty for accepting a corporate or LLC contribution that is not refunded is the amount of the contribution plus \$250. Accordingly, the Board assessed penalties of \$125 for the Carl Jean contribution, and \$6335 for the Red Horse contribution, for total penalties of \$6,460.

### **2. Accepting over-the-limit Doing Business contributions**

**\$800**

Campaigns may not accept contributions from individuals or entities that have business dealings with New York City government (“the City”) in excess of the applicable Doing Business contribution limit for the entire election cycle. *See* Admin. Code §§ 3-702(8), (18), (20), 3-703(1-a), (1-b); Board Rules 1-04(c)(1), 1-04(h). When a candidate receives a contribution in excess of the limit from a contributor who has business dealings with the City, the candidate must return the excess portion to the contributor by bank check or certified check made out to the contributor within twenty days of being notified by the Board. *See* Board Rule 1-04(c)(1).

The Doing Business contribution limit for candidates in the 2009 election for City Council was \$250. *See* Admin. Code § 3-703(1-a). The Campaign accepted a \$1,500 contribution from Michael Ambrosino on March 18, 2009, and a \$1,000 contribution from Bill Wren on March 27, 2009. The Campaign was notified of both contributions on June 2, 2009, and given a deadline of June 22, 2009 to refund them. Both refunds were issued on June 25, 2009. The Campaign also accepted a \$300 contribution from Mounir Doss on July 29, 2009. The CFB notified the Campaign of that contribution on August 18, 2009, and set a refund deadline of September 8, 2009. No refund of this contribution has been reported.

The penalty for an over-the-limit Doing Business contribution that is refunded after the deadline is \$250. If the contribution is not refunded, the penalty is \$250 plus the amount of the overage. Accordingly, the Board assessed penalties for these violations of \$250 for each contribution that was refunded after the deadline (Ambrosino and Wren), plus \$300 for the contribution that was not refunded (Doss), for a total of \$800.

**3. Filing a disclosure statement five days late \$250**

Campaigns are required to file complete and timely disclosure statements on scheduled dates. *See* N.Y.C. Charter § 1052(a)(8); Admin. Code §§ 3-703(6), 3-708(8); Board Rules 1-09(a), 3-02. The Campaign's Statement #12, which was due on September 25, 2009, was postmarked September 30, 2009, five days late. The Board assessed a penalty of \$50 per day, for a total of \$250.

**4. Failing to report transactions \$250**

Campaigns are required to report every contribution, loan, receipt, and disbursement. *See* Admin. Code § 3-703(6); Board Rule 3-03. The Campaign failed to report 13 transactions, one of which is a debit in the amount of \$5,000 incurred on August 31, 2009, to an unknown vendor. The Board assessed a \$250 penalty for the \$5,000 transaction, and a violation, no penalty for the remaining 12 unreported transactions.

**5. Failing to accurately report receipts resulting in a 24.87% variance \$500**

Campaigns are required to report every contribution, loan, receipt, and disbursement. *See* Admin. Code § 3-703(6); Board Rule 3-03. A review of the Campaign's financial records revealed reported cash receipts of \$5,064, but deposit slips totaling \$6,740, for a variance of \$1,676 (24.87%). The Board assessed a penalty of \$500.

**6. Failing to comply with subcontractor reporting requirements \$150**

Campaigns are required to report the use of subcontractors by vendors who receive payments of more than \$5,000 for goods or services. *See* Admin. Code § 3-703(6); Board Rule

3-03(e)(3). Campaigns are also required to obtain and maintain documentation from a vendor that has used a subcontractor. *See* Admin. Code §§ 3-703(1)(d), (g); Board Rule 4-01(h). The Campaign failed to report or provide any subcontractor information for two vendors: Independent Professional (\$17,012) and Earl Ferguson (\$27,500). The Board assessed penalties for these violations of \$50 for Independent Professional and \$100 for Earl Ferguson, for total penalties of \$150.