

1. Converting campaign funds to a personal use \$3,546

Campaign funds must not be used for any purpose unrelated to a political campaign, and may not be converted by any person to a personal use. *See* Admin. Code § 3-702(21)(b). The CFB considers the following factors relevant to determining whether an expenditure of campaign funds was for the campaign or for personal use unrelated to the campaign: the timing and necessity of the expenditure; the amount of the expenditure and/or all expenditures of a specific type in relation to the Campaign’s total expenditures; whether the expenditure is duplicative of other spending; and the quality of the documentation submitted. *See* N.Y.S Election Law § 14-130, Admin. Code §§ 3-702(21), 3-703(1)(d), (g), and 3-710(2)(c), Board Rules 1-03(a), 4-01, and 5-03(e), and Advisory Opinion No. 2007-3 (March 7, 2007).

The Campaign purchased the following items totaling \$3,253.65 for purposes unrelated to the election:

Dell Studio 15 Notebook

The Campaign purchased a Dell Studio 15 Notebook for \$1,071.33 on August 24, 2009. Shipping took three to five days, which indicates that the computer was not immediately necessary. Further, the computer was used for a short period, if at all, prior to the September 15th primary election. Thus, it appears that the computer was purchased for personal use after the election.

Two netbooks and a router

The Campaign purchased two netbooks and a router for a total of \$816.53 at J&R on August 29, 2009. The timing of these purchases (slightly more than two weeks prior to the primary election) coincides with the anticipated delivery of the Dell Studio 15 Notebook. Therefore, the Campaign’s spending on computers was duplicative. In addition, the Campaign’s total spending on computers so near the primary indicates that the purchases appear to be for personal use after the election.

Sony Ericsson Smartphone

The Campaign purchased a Sony Ericsson Smartphone for \$533.90 from Amazon.com on August 22, 2009. The phone shipped on August 24, 2009 via FedEx standard shipping, which means that it was not received until several days later. In addition, the phone’s cost was excessive. Finally, because the phone was unlocked, it appears that it was not purchased for any existing Campaign cellular plan, but for personal use after the election.¹

¹ The 2009 Campaign Finance Handbook instructs campaigns that they “may purchase wireless devices and plans for the candidate and staff,” but are “expected to be reasonable consumers and should purchased sensibly priced devices and plans.” 2009 Campaign Finance Handbook, page 46.

19" HDTV, mini-fridge, DVD player, coffee maker, flashlight, etc.

The Campaign purchased a variety of items totaling \$490.65 at Target on August 26, 2009, including a 19-inch high definition television, DVD player, mini-fridge, coffee maker, and other items that appear to be for personal use after the election.

Nikon camera and 2G memory card

The Campaign purchased a Nikon camera and 2G memory card for a total of \$123.01 at Target on August 26, 2009 that appear to be for personal use after the election.

In addition to the above items, the Campaign did not provide a receipt or other documentation for purchases totaling \$188.24 from Target on August 31, 2009.

The Campaign has not demonstrated that the items listed above were for the election. The Board assessed a penalty of \$3,546, which represents a disgorgement of the funds converted to a personal use, plus 10%.

2. Filing a disclosure statement late \$750

Campaigns are required to file disclosure statements on scheduled dates. *See* Admin. Code §§ 3-703(6), 3-708(8) and Board Rules 1-09(a), 3-02. Disclosure Statement No. 12 was due September 25, 2009, but the Campaign filed it 18 days late, on October 13, 2009. The Board assessed a penalty of \$750.

3. Improper post-election expenditures Violation, no penalty (VNP)

After an election and before repaying leftover campaign funds to the Board, Program 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) and 3-710, and Board Rules 1-03(a) and 5-03(e)(2).

The Campaign made the following nine expenditures totaling \$987.93 that, due to their timing and purpose, appear to be improper post-election expenditures:

Name	Transaction ID#	Invoice Date	Paid Date	Amount
Queens County Clerk	16/F/R0001539	09/18/09	09/22/09	\$210.00
Queens County Clerk	16/F/R0001547	09/18/09	09/22/09	\$95.00
NYC MTA Transit	16/F/R0001593	09/22/09	09/22/09	\$27.00
Queens County Clerk	16/F/R0001557	09/23/09	09/25/09	\$210.00
Queens County Clerk	16/F/R0001561	09/23/09	09/25/09	\$95.00
Rivas, Marino	16/F/R0001568	09/23/09	09/28/09	\$150.00
Gonzalez, Elba	16/F/R0001570	09/25/09	09/28/09	\$80.00
Staples	Not reported		09/18/09	\$39.18
Withdrawal	Not reported		09/28/09	<u>\$81.75</u>
Total:				<u>\$987.93</u>

The Board assessed no penalty for these violations.

4. Failing to document expenditures Violation, no penalty (VNP)

Upon the Board’s request, a campaign is required to provide copies of checks, bills, or other documentation to verify contributions, expenditures or other transactions. *See* Admin. Code §§ 3-703(1)(d) and (g), and Board Rule 4-01.

The Campaign failed to provide documentation for two expenditures to The Home Depot. As a result, CFB staff does not have sufficient assurance that the expenditures were campaign-related. The Board assessed no penalty for these violations.

5. Failing to comply with subcontractor reporting requirements Violation, no penalty (VNP)

Campaigns are required to report the use of subcontractors by vendors who receive payments of more than \$5,000 for goods or services. A campaign that pays a vendor more than \$5,000 during an election must inquire of the vendor whether it used a subcontractor for any part of the delivered goods or services. *See* Admin. Code §§ 3-703(1)(d), (g) and 3-703(6), and Board Rules 3-03(e)(3) and 4-01(h).

The Campaign failed to provide information regarding the use of subcontractors from H2G Media Corp., which was paid \$10,525. The Board assessed no penalty for this violation.