

Mathieu Eugene, CD #40 (2009)

1. Failing to respond to a request for information and documentation \$1,568

Candidates must timely furnish any information the Board requests relating to campaign expenditures and contributions, including a response to post-election audit notices. *See* Admin. Code §§ 3-703(1)(d), (g), 3-710(1), 3-711(2)(b); Board Rule 4-05.

The Campaign's response to its Draft Audit Report was inadequate. On March 22, 2011, CFB staff issued a letter requesting additional information and documentation; the Campaign never provided any of the documentation requested.

The Board assessed a penalty of \$1,568 for this violation.

2. Accepting a corporate contribution \$990

Campaigns may not accept, either directly or indirectly, a contribution from a corporation. *See* Admin. Code § 3-703(1)(1); Board Rule 1-04(e). A liability outstanding for more than 90 days is a contribution, unless the creditor has made a reasonable attempt to collect the debt. *See* Board Rule 1-04(g).

The Campaign reported paying a \$740 check to Courier Life Inc., but there is no evidence that the check cleared. Courier Life Inc. (now owned by Community Newspaper Group, "CNG") is a corporation. The Campaign has not provided evidence that Courier Life Inc. or CNG continues to seek payment for this liability.

The Board assessed a penalty of \$990 for this violation.

3. Failing to demonstrate that spending was in furtherance of the campaign \$608

Campaigns may only spend campaign funds for items that further the candidate's election. Expenditures for purposes other than the candidate's election are considered "non-campaign related." The Act enumerates types of expenditures that are presumed to be campaign related and non-campaign related. *See* Admin. Code § 3-702(21). In examining whether an expenditure is in furtherance of a campaign, CFB staff considers, among other things, the timing of the expenditure, its purpose, and its cost.

The Campaign failed to provide explanations and/or documentation demonstrating that ten expenditures, totaling \$6,087.77, were in furtherance of the Campaign.

The Board assessed a penalty of \$608 for these violations.

4. Accepting an over-the-limit “Doing Business” contribution \$500

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. For City Council candidates in 2009, the “Doing Business” limit was \$250. When a campaign receives a contribution in excess of the limit from a contributor who has business dealings with the city, the campaign 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 CFB staff *See* Admin. Code §§ 3-702(18), 3-703(1-a); Board Rule 1-04(c)(1).

The Campaign reported that it received a \$500 contribution from Kenrick Cort, an individual who had business dealings with the city, on November 25, 2008, and promptly refunded the \$250 overage upon notification by the CFB. The Campaign then reported that it received another \$250 contribution from Mr. Cort on February 10, 2009, which it failed to refund. Therefore, the Campaign exceeded the “Doing Business” contribution limit by \$250.

The Board assessed a penalty of \$500 for this violation.

5. Failing to respond to requests for information \$450

Campaigns must obtain and furnish to the Board any information and/or documentation that the Board may request relating to the Campaign’s expenditures. *See* Admin. Code §§ 3-703(1)(d), (g), 3-711(1); Board Rules 4-01(a), (e)(1), (f).

The Campaign submitted documentation that appears to contain two different versions of the same check number. CFB staff questioned the Campaign about these duplicate checks and others, and requested information about the Campaign’s expenditure documentation. The Campaign failed to provide the requested explanations or information.

In addition, the Campaign submitted inconsistent documentation related to five campaign workers. CFB staff questioned the Campaign about these workers’ payments and others, and requested information about the Campaign’s expenditure documentation. The Campaign failed to provide the requested explanations or information.

The Board assessed a penalty of \$450 for these violations.

6. Failing to comply with subcontractor reporting requirements \$250

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), 3-703(6); Board Rules 3-03(e)(3), 4-01(h).

The Campaign failed to provide information regarding the use of subcontractors by two vendors: Michael D. Cohen (paid a total of \$56,800) and Preference Graphx (paid a total of \$10,250).

The Board assessed a penalty of \$250 for these violations.

7. Failing to file daily pre-election disclosure statements \$100

During the two weeks preceding an election, contributions and loans from a single source in excess of \$1,000, or expenditures in excess of \$20,000, must be disclosed to the Board within 24 hours. The Campaign must also report these contributions, loans, and expenditures in the Campaign's next disclosure statement. *See* Board Rule 3-02(e). The reporting requirement under Board Rule 3-02(e) is triggered by contributions from a single source that in the aggregate exceed \$1,000 and expenditures that in the aggregate exceed \$20,000.

The Campaign reported expenditures to Michael D. Cohen that exceeded \$20,000 in the aggregate as of September 4, 2009. The Campaign was therefore required to file a daily disclosure statement to report the September 4 expenditure, and all subsequent expenditures, to the vendor.

In addition, the Campaign received a \$1,500 contribution from "P.A.C." (New York Check P.A.C., Inc.) on September 12, 2009, which should have been reported in a daily disclosure statement.

The Board assessed a penalty of \$100 for these violations.

8. Failing to document a joint expenditure \$100

Campaigns are permitted to engage in joint campaign activities, provided that the benefit each candidate derives from the joint activity is proportional to the amount each candidate pays. *See* Admin. Code § 3-715; Board Rule 1-08(h). 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), (g); Board Rule 4-01.

Documentation submitted to the Board revealed that the Campaign engaged in joint activities for petition printing. The Campaign failed to respond to a request for additional information and documentation related to the suspected joint expenditure, and failed to respond to a request that it affirmatively state whether or not it engaged in other joint campaign activities.

The Board assessed a penalty of \$100 for these violations.

9. Failing to report in-kind contributions

\$100

Campaigns are required to report all in-kind contributions they receive. *See* Admin. Code §3-703(6); Board Rule 3-03. In-kind contributions are goods or services provided to a campaign for free, paid by a third party, or provided at a discount not available to others. The amount of the in-kind contribution is the difference between the fair market value of the goods or services and the amount the campaign paid. *See* Admin. Code §3-702(8); Board Rules 1-02, 1-04(g). In addition, campaigns are required to provide a record that describes each in-kind contribution and demonstrates its fair market value. *See* Admin. Code §§ 3-702(8), 3-703(1)(d), (g); Board Rules 1-04(g)(2), 4-01(c).

The Campaign failed to report and document expenditures for the design and maintenance of its website, which means that the services may have been provided without charge.

In addition, the Campaign's lease required it to pay \$1,000 every month for rent. However, the Campaign reported paying only \$775 for rent in November, 2009. Therefore, the Campaign received an in-kind contribution of \$225 that it failed to report or document.

The Board assessed a penalty of \$100 these violations.