

Maria Baez, CD #14 (2009)

1. Accepting a contribution from a partnership \$100

Campaigns may not accept contributions from partnerships. *See* Admin. Code § 3-703(1)(l); Board Rule 1-04(e). If a campaign accepts such a prohibited contribution, it must promptly return it by bank or certified check. Board Rule 1-04(c)(1).

The Campaign accepted a \$100 contribution from Cohen & Siegel LLP. After notice from CFB staff, the Campaign refunded the contribution promptly.

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

2. 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. *See* Admin. Code §§ 3-702(8), (18), (20), 3-703(1-a), (1-b); Board Rules 1-02, 1-04(c)(1), 1-04(h). If a campaign accepts such an over-the-limit contribution, it must return the excess portion to the contributor by bank check or certified check within twenty days of being notified by the Board. *See* Admin. Code § 3-703 (1-b); Board Rule 1-04(c)(1).

The Campaign accepted two contributions from an individual that together exceeded the applicable \$250 limit. The Campaign failed to refund the over-the-limit portion of the contribution.

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

3. Failing to demonstrate that another committee’s expenditures were not used in furtherance of the Campaign \$935

Campaigns must disclose, in the candidate certification, the existence of each authorized committee that has not been terminated. The principal committee designated in a candidate’s certification must be the only committee authorized to “aid or otherwise take part in the election(s) covered by the candidate’s certification.” *See* Admin. Code 3-703(1)(e). The use of an entity other than the designated principal committee to aid in the election will result in the application of the Act and Board Rules, including the expenditure limit, to the other entity’s activity. *See* Admin. Code §§ 3-702(2) and 3-703(1)(e); Board Rules 2-01, 2-06, 1-08. Campaigns have the burden to show why an expenditure made by an entity other than the principal committee should not be attributed to the campaign’s first election following the expenditure. *See* Board Rule 1-08(c)(1)(i); Advisory Opinion 1997-6 (June 24, 1997).

The Campaign failed to demonstrate that expenditures by a different committee, Baez for the Future (BFTF), were not made in connection with the 2009 primary. The expenditures by BFTF that were reported to the New York State Board of Elections were not in furtherance of the

Campaign. However, BFTF failed to report nearly \$10,000 in expenditures, and these expenditures may have been made in connection with the 2009 primary election.

The Board assessed a penalty of \$935 for this violation.

4. Filing a disclosure statement 13 days late \$650

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), (12); 3-708(8); Board Rules 1-09(a), 3-02.

The Campaign filed Statement 12 on October 8, 2009, 13 days after the deadline date of September 25, 2009.

The Board assessed a penalty of \$650 for this violation.

5. Failing to provide bank statements \$250

Campaigns are required to provide bank records, including periodic bank statements. *See* Admin. Code §§ 3-703(1)(d), (g); Board Rules 4-01(a), (f).

The Campaign failed to provide bank statements from November 19, 2009 through the present.

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

6. Failing to comply with subcontractor reporting requirements \$200

When a campaign knows or should have known that its vendor paid a subcontractor more than \$5,000 for goods or services, the campaign is required to report information concerning the subcontractor. *See* Admin. Code §§ 3-703(1)(d), (g), (6); Board Rules 3-03(e)(3), 4-01(h).

The Campaign paid Metro Strategies LLC \$57,464, yet did not provide a completed Subcontractor Disclosure Form for the vendor, or evidence of a good faith attempt to obtain this information. The Board assessed the baseline penalty of \$200.

7. Accepting an unreported in-kind contribution from an LLC \$15,254

Campaigns are required to report all transactions. *See* Admin. Code § 3-703(6); Board Rule 3-03(c). A campaign may not accept a contribution from a limited liability company. *See* Admin. Code § 3-703(1)(l); Board Rule 1-04(e). Debts incurred by a campaign that are forgiven, and extensions of credit where a vendor has not made a commercially reasonable attempt to collect a debt, become in-kind contributions. *See* Admin. Code § 3-702(8); Board Rule 1-04(g). If a campaign accepts such a prohibited contribution, it must promptly return it by bank or certified check. *See* Board Rule 1-04(c)(1).

The Campaign incurred a liability of \$15,004 to Metro Strategies, LLC and has failed to provide documentation that it has paid this debt, a current invoice showing that Metro Strategies still expects payment, or any documentation that the vendor has made commercially reasonable efforts to collect this debt. Accordingly, the Campaign has accepted a prohibited in-kind LLC contribution of \$15,004.

The Board assessed a penalty of \$15,254 for this violation.

8. Accepting an over-the-limit contribution \$1,089

Candidates for City Council in the 2009 election were prohibited from receiving contributions in excess of \$2,750 from a single contributor. *See* Admin. Code § 3-703(1)(f). Debts incurred by a campaign that are forgiven, and extensions of credit where the vendor has not made a commercially reasonable attempt to collect the debt, become in-kind contributions. *See* Admin. Code § 3-702(8); Board Rule 1-04(g). If a campaign accepts an over-the-limit in-kind contribution, it must promptly return the excess portion to the contributor by bank or certified check. *See* Board Rule 1-04(c)(1).

The Campaign reported a contribution from David Weprin's 2009 committee of \$2,750. In addition, due to joint expenditures with Weprin 2009 for literature, the costs of which were not properly attributed to each campaign, Weprin 2009 made two unreported in-kind contributions to the Campaign -- \$421.82 for a flyer and \$417.46 for a palm card. Accordingly, the Campaign has accepted a \$3,589 contribution from Weprin 2009, which is \$839 over-the-limit.

The Board assessed a penalty of \$1,089 for this violation.

9. Accepting a contribution from an unregistered political committee \$280

Participating campaigns may not accept a contribution from a political committee unless the committee is registered with the CFB within ten days of receipt of the contribution. *See* Admin. Code §§ 3-703(1)(k), 3-707; Board Rule 1-04(d). If a campaign accepts such a prohibited contribution, it must promptly return it by bank or certified check. *See* Board Rule 1-04(c)(1).

The Campaign accepted a \$30 contribution from an unregistered political committee on June 4, 2009, and the committee did not register with the CFB within ten days of the contribution. The Campaign did not refund the contribution.

The Board assessed a penalty of \$280 for this violation.

10. Failing to report three in-kind contributions \$150

Campaigns are required to report all transactions in C-SMART. *See* Admin. Code § 3-703(6); Board Rule 3-03(c). Debts incurred by a campaign that are forgiven, and extensions of

credit where a vendor has not made a commercially reasonable attempt to collect a debt, become in-kind contributions. *See* Admin. Code § 3-702(8); Board Rule 1-04(g).

The Campaign rented a truck displaying a promotional campaign message from Accurateye for \$5,000. The invoice did not include the sales tax of \$443.75 and accordingly, this amount is an unreported in-kind contribution from the vendor. The Board assessed the baseline penalty of \$50.

On September 15, 2009, CFB observers interviewed two individuals who stated that they were paid workers for the Campaign, but the Campaign did not report paying them in its disclosure statements. Because the Campaign did not report paying either worker, and no payment to them appears on the Campaign's bank statements, their services may have been paid for by a third party.

The Board assessed a penalty of \$150 for these violations.

11. Failing to report in-kind contributions from other campaigns No Penalty

Campaigns are required to report all transactions in C-SMART. *See* Admin. Code § 3-703(6); Board Rule 3-03(c); 2009 Campaign Finance Handbook, p.77. Debts incurred by a campaign that are forgiven, and extensions of credit where a vendor has not made a commercially reasonable attempt to collect a debt become in-kind contributions. *See* Admin. Code § 3-702(8); Board Rule 1-04(g). Where campaigns engage in joint expenditures, the costs must be divided proportionally according to the benefit each campaign receives. Among the factors the Board considers is the relative prominence of the candidate's references or appearances in the literature. Board Rule 1-08(h).

The Campaign produced joint campaign literature with the Thompson and the Weprin campaigns.

According to the Metro Strategies invoice for a flyer with the Thompson and Weprin campaigns, the Campaign was billed one-third of the total cost. However, based on the relative prominence of the Candidate's appearance in the literature, the Campaign should have paid approximately \$2,109.07 (five-ninths of the total). As the Campaign only paid \$1,265.44, the difference of \$843.63 is considered an in-kind contribution from the other campaigns. One half of the \$843.63, or \$421.82, is considered an in-kind contribution from the Weprin campaign. *See* Violation 8.

According to the Metro Strategies invoice for a palm card with the Weprin campaign, the Campaign was billed half of the total cost. However, based on the relative prominence of the Candidate's appearance in the literature, the Campaign should have been responsible for approximately \$1,252.37 (three-fourths of the total). As the Campaign reported a liability of only \$834.91, the difference of \$417.46 is considered an in-kind contribution from the Weprin campaign. *See* Violation 8.

The Board did not assess a penalty for these violations.

12. Exceeding the expenditure limit **\$17,975**

Campaigns that participate in the Campaign Finance Program must abide by expenditure limits. *See* Admin. Code §§ 3-703(1)(i), 3-706, 3-711(2)(a); Board Rules 1-08(a), (c), (d), (l).

The expenditure limit for City Council campaigns in the 2009 primary election was \$161,000. The Campaign exceeded the expenditure limit by \$8,987, which is 5.58% over the limit.

The Board assessed a penalty of \$17,975 for this violation.

14. Failing to document fifteen transactions **\$750**

Campaigns are required to document all transactions. *See* Admin. Code § 3-703(1)(d), (g); Board Rules 4-01. The Campaign failed to provide documentation for the following transactions.

The Campaign stated that Metro Strategies invoices #291 and #306 were for different pieces of joint literature, but did not provide copies of the two pieces. The Board assessed the baseline penalty of \$100.

The Campaign has not provided timesheets for eight workers that it paid. The Board assessed the baseline penalty of \$400.

The Campaign submitted wage records (timesheets and the fronts and backs of canceled checks) for workers reported to have worked on primary day. In five instances, it appears that the timesheet was signed by someone other than the person who endorsed the payment check. These five employees were paid \$100 each.

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

15. Failing to document and correctly allocate a joint expenditure **\$50**

Campaigns are required to report all transactions in C-SMART. *See* Admin. Code § 3-703(6); Board Rule 3-03(c); 2009 Campaign Finance Handbook, p.77. Campaigns are required to document all transactions. *See* Admin. Code § 3-703(1)(d), (g); Board Rules 4-01.

The Campaign provided a copy of Metro Strategies Invoice #318 and a sample of the literature. The invoice has the same vendor job identification code as Invoice #331, and the literature is the same as that provided with Invoice #331. (*See* Violation 11, Weprin campaign.) Therefore, Invoice #318 appears to represent a separate purchase of the same Weprin/Baez joint literature purchased pursuant to Invoice #331. Whereas Invoice #331 appears to represent 50% of the total cost of the joint literature, Invoice #318 billed the Campaign for the full amount, and the Campaign reported and paid the full amount. Thus, it appears that the Campaign paid for the Weprin campaign's share of the literature represented by Invoice #318.

The Board assessed a penalty of \$50 for this violation.

16. Failing to respond to the Draft Audit Report

\$7,017

A campaign is required to respond to the Draft Audit Report (“DAR”) by the due date. *See* Admin. Code §§ 3-703(1)(d), (g), (11), 3-708(5), 3-710(1), 3-711(1); Board Rules 1-09(a), 4-01, 4-05.

The DAR for the Campaign was issued on September 9, 2010, but, with the exception of providing bank statements that it had provided previously, the Campaign has made no response.

The Board assessed a penalty of \$7,017 for this violation.