

## **Rock Hackshaw, CD #40 (2009)**

### **1. Filing a disclosure statement three days late \$150**

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.

Statement #12 was due on September 25, 2009. Although the Campaign filed this disclosure statement electronically on September 25, the backup documentation was postmarked September 28, three days late.

The Board assessed a penalty of \$150 for this violation.

### **2. Failing to respond timely to the post-election documentation request \$1,000**

Campaigns must maintain records, such as copies of checks, bills and other documentation, that enable the Campaign Finance Board to verify the contributions and expenditures reported in the candidate's disclosure statements. *See* Admin. Code §§ 3-703(1)(d), (g); Board Rule 4-01. *See* Admin. Code §§ 3-703(1)(d), (g). Upon request by the CFB, campaigns are required to furnish such records and to provide documentation to verify transactions reported in their disclosure statements. *See* Admin. Code §§3-703(1)(d), (g); Board Rule 4-01.

The Campaign's response to the post-election documentation request was a total of 88 days late.

The Board assessed a penalty of \$1,000 for this violation.

### **3. Failing to provide bank statements \$250**

Campaigns are required to provide the Campaign Finance Board with bank records, including periodic bank statements and deposit slips. *See* Admin. Code §§ 3-703(1)(d), (g); Board Rule 4-01(f).

The Campaign failed to provide statements from its JP Morgan Chase account from January 1, 2010, through the present.

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

### **4. Failing to provide deposit slips, resulting in a 34.05% cash variance \$1,000**

Campaigns are required to report every contribution, loan, receipt, and disbursement. *See* Admin. Code § 3-703(6); Board Rule 3-03. Campaigns are further required to report all receipts, deposit them into the account listed on the candidate's Certification, and provide the

Board with the deposit slips. *See* Admin. Code §§ 3-703(1)(d),(g), (6), (10); Board Rules 1-04(a), (b), 2-06(a), 3-03(c), 4-01(a), (b)(1), (f).

The Campaign reported total cash deposits of \$10,706, but provided deposit slips totaling \$7,061, resulting in a variance of \$3,645, or 34.05 percent.

The Board assessed a penalty of \$1,000 for this violation.

**5. Failing to document a petty cash fund \$50**

Campaigns must maintain records, such as copies of checks, bills and other documentation, that enable the CFB to verify the contributions and expenditures reported in the candidate's disclosure statements. *See* Admin. Code §§ 3-703(1)(d), (g); Board Rule 4-01. Campaigns are required to furnish such records to the CFB. *See* Admin. Code §§ 3-703(1)(d), (g).

The Campaign reported expenditures to Petty Cash totaling \$1,160, but did not provide documentation for those expenditures.

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

**6. Accepting and failing to report a corporate contribution \$1,050**

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). Additionally, campaigns are required report every contribution, loan, receipt, and disbursement. *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. Liabilities for goods and services for the Campaign which are forgiven, in whole or part, are also in-kind contributions. In addition, liabilities for goods and services outstanding beyond 90 days are in-kind contributions unless the vendor has made commercially reasonable attempts to collect. An in-kind contribution is both a contribution and expenditure subject to both the contribution and expenditure limits. *See* Admin. Code §3-702(8); Board Rules 1-02, 1-04(g).

The Campaign submitted documentation for an event at Rose Garden Catering, Inc. in the amount of \$1,200.00. The Campaign reported a \$400 payment for a deposit in its disclosure statements, but did not report the \$800 balance due as an outstanding liability or a bill payment. Therefore, the \$800 balance may have been forgiven or paid by someone other than the Campaign, which may constitute an unreported corporate contribution.

The Board assessed a penalty of \$1,050 for this violation.

**7. Failing to document loans**

**\$150**

Campaigns are required to provide copies of checks, bills, or other documentation to verify all transactions reported in their disclosure statements. *See* Admin. Code §§3-703(1)(d), (g); Board Rule 4-01. Campaigns are further required to retain and provide loan documentation, such as copies of loan checks, to the CFB upon request. *See* Board Rule 4-01(g).

The Campaign has not provided supporting documentation for three reported loans received from the candidate, dated December 18, 2009 (\$400); December 23, 2009 (\$100); and January 11, 2010 (\$600).

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

**8. Failing to demonstrate that spending was in furtherance of the campaign**

**\$1,060**

Campaigns may only spend campaign funds for items that further the candidate's election. Campaigns must keep detailed records to demonstrate that campaign funds were used only for a campaign-related purpose. 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). Among the factors the CFB considers relevant are: the quality of the documentation submitted; 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; and whether the expenditure is duplicative of other spending. *See* N.Y.S. Election Law §14-130; Admin. Code §§ 3-702(21), 3-703(1)(d), (g), 3-710(2)(c); Board Rules 1-03(a), 4-01, 5-03(e); Advisory Opinion No. 2007-3 (March 7, 2007). After receiving public funds for an election, participants shall not pay volunteers for services already performed on a voluntary basis for that election, but may hire them as employees or retain them as consultants for future services. *See* Board Rule 1-08(k).

The Campaign submitted contracts with its Coordinator and Director of Field Operations, dated February 15, 2009. The contracts detailed lump sum payments of \$5,000, for the amount of time it took to complete a particular project. Subsequently, the Campaign submitted contract amendments that included an additional \$7,000 payable to each consultant for additional responsibilities, including co-managing the Campaign beyond their original roles. The contract amendments were dated August 15 and 16, 2009, respectively, and stated that "said responsibilities are grandfathered back to the start of the petition-gathering process (June 2009)." However, these amendments did not contain sufficient details as to what additional responsibilities were performed by the consultants beyond the initial February 15, 2009 contracts; when the additional responsibilities began; and whether there were any volunteer services performed by the consultants that were subsequently paid for.

The Campaign reported consulting fee payments of \$9,000 and \$10,500. Because of the lack of documentation of work performed beyond the original contract, the difference between the amount these consultants were paid and the amount provided for in their original contracts (\$4,000 and \$5,500) has not been shown to be in furtherance of the candidate's election. The

Campaign also reported additional expenditures totaling \$1,108.41 which, based on the reporting and/or documentation, appear to be non-campaign related.

The Board assessed a penalty of \$1,060 for these violations.

**9. Making improper post-election expenditures \$230**

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

Expenditures totaling \$2,309.86 may be improper post-election expenditures due to their timing, amount and/or purpose.

The Board assessed a penalty of \$230 for these violations.

**10. Failing to respond to the draft audit report \$7,714**

Campaigns must maintain records, such as copies of checks, bills and other documentation, that enable the Campaign Finance Board to verify the contributions and expenditures reported in the candidate’s disclosure statements. *See* Admin. Code §§ 3-703(1)(d), (g); Board Rule 4-01. *See* Admin. Code §§ 3-703(1)(d), (g). Upon request by the CFB, campaigns are required to furnish such records and to provide documentation to verify transactions reported in their disclosure statements. *See* Admin. Code §§3-703(1)(d), (g); Board Rule 4-01.

The draft audit report (DAR) was sent to the Campaign on March 4, 2011. The Campaign did not submit a response to the DAR.

The Board assessed a penalty of \$7,714 for this violation.