

Diana Reyna, CD #34 (2009)

1. Accepting two over-the-limit “Doing Business” contributions \$625

Campaigns may not accept contributions from individuals or entities that have business dealings with New York City government 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 a contribution that exceeded the applicable \$250 limit by \$150. The Campaign refunded the over-the-limit amount after the deadline. The Board assessed the baseline penalty of \$250.

The Campaign accepted two contributions from an individual that together exceeded the \$250 limit by \$125. The Campaign did not refund the over-the-limit portion.

The Board assessed a penalty of \$375 for these violations.

2. Accepting a corporate contribution \$20

Campaigns may not accept contributions from corporations. *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 \$20 contribution from William’s Private Services, Inc. The Campaign promptly refunded the contribution.

The Board assessed a penalty of \$20 for this violation.

3. Accepting a contribution from an unregistered political committee \$250

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 \$2,800 contribution from N.S.A., Inc. Political, an unregistered political committee. The Campaign refunded \$2,750 of the contribution after the deadline.

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

4. Failing to report a separate committee that may have been used for campaign purposes and failing to provide its bank statements \$250

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 Rule 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 did not list the candidate's District Leader Committee, Committee to Elect Diana Reyna, in the Campaign's Filer Registration or its Certification, did not amend its Certification to list the Committee, and has not provided the requested District Leader Committee bank statements from July 2008 through the present.

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

5. Failing to file daily disclosure statements \$100

During the two weeks preceding an election, a campaign is required to report all contributions or loans accepted from a single source exceeding \$1,000, and any expenditures that exceed \$20,000, within 24 hours after they are accepted or made. These contributions and expenditures must also be reported in the Campaign's next disclosure statement. *See* Admin. Code §§ 3-703(1), (g), (6), (12); Board Rule 3-02(e).

The Campaign failed to file required daily disclosures to report two contributions greater than \$1,000 (\$2,500 and \$2,750), and one expenditure in excess of \$20,000 (\$33,076 to Red Horse Strategies), in the two weeks preceding the primary and general elections.

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

6. 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 has not provided bank statements from December 2011 through the present (or through the date the account was closed). The bank statements provided by the Campaign show undocumented activity in the account, leaving a balance of \$3,069. The additional bank statements would show any additional activity and the current balance.

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

7. Failing to report and document 19 specific transactions \$250

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 also required to document all transactions. *See* Admin. Code §§ 3-703(1)(d), (g); Board Rule 4-01.

The Campaign failed to report and document 19 transactions.

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

8. Failing to document an in-kind contribution (website) \$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. 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).

Campaigns typically report certain kinds of expenditures to run their campaigns. However, the Campaign did not report expenditures for any web site expenses for two websites, which may mean that goods/services were provided without charge.

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

9. Failing to document an in-kind contribution \$50

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

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

10. Failing to contemporaneously document a specific transaction

\$500

Campaigns are required to contemporaneously document all transactions. *See* Admin. Code §§ 3-703(1)(d), (g); Board Rule 4-01. Board Rule 4-01 states that “records shall be made and maintained contemporaneously with the transactions recorded . . . the records . . . shall be accurate and, if necessary modified promptly to ensure continuing accuracy . . .” If a Campaign becomes aware that a record of an expenditure is incorrect, it

may create a new record or modify an existing record, provided that the record so created or modified is clearly identified by the candidate as such In addition, the candidate must create a further record, in the form of a signed, dated, and notarized statement by the candidate and/or treasurer and/or other campaign representative having first-hand knowledge of the matter, explaining the reasons for and the circumstances surrounding the creation or modification of a record. The Board reserved the right not to accept a noncontemporaneous record . . . if, after review of the timing and other circumstances, it determines that the record is not sufficient to document the actual transaction. (Board Rule 4-01)

The Campaign submitted a partially executed contract with a campaign consultant, dated (in a typed preamble) October 12, 2009. In response to a CFB staff inquiry, the Campaign submitted two fully executed contracts, with the same October 12, 2009 preamble as the earlier contract. The two later-submitted contracts appear to be noncontemporaneous, modified versions of the earlier submitted contract, with portions edited to make the contracts conform to the actual payments. The Campaign did not provide a signed, notarized statement concerning its reasons for and the circumstances surrounding the modification of the record.

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

11. Making two cash payments greater than \$100

\$100

A campaign may not make a cash expenditure in excess of \$100. *See* Board Rules 1-08(i), 4-01(e)(2). *See also* N.Y.S. Election Law § 14-118(2); Admin. Code §§ 3-703(1)(d), (g), (6), (11). The Campaign made two cash withdrawals of over \$100. These may have been used for impermissible cash expenditures.

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