

## **Yudelka Tapia, CD#14 (2009)**

### **1. Accepting a contribution from a corporation \$46**

Candidates are prohibited from accepting contributions from corporations. *See* Admin. Code § 3-703(1)(l), Board Rule 1-04(e). When a candidate has received a prohibited contribution, the candidate must promptly refund the contribution by bank check or certified check made out to the contributor. *See* Board Rule 1-04(c)(1). Debts incurred by a campaign that are forgiven become in-kind contributions. *See* Board Rules 1-04(g)(1), (5).

On May 29, 2009, the Campaign purchased two banners for \$550 from LB Graph-X and Printing, a corporation, but was not charged the \$46.06 sales tax, making this amount an in-kind contribution. The Campaign promptly refunded the contribution.

The Board assessed a penalty of \$46 for this violation.

### **2. Filing a disclosure statement late \$750**

Candidates must file disclosure reports listing contributions and expenditures at such times as the CFB requires. *See* Admin. Code § 3-703(6), Board Rule 3-02.

A statement was due July 15, 2009, and the Campaign filed it on July 31, 2009, sixteen days late.

The Board assessed a penalty of \$750 for this violation.

### **3. Failing to file two disclosure statements \$1,500**

Candidates must file disclosure reports listing contributions and expenditures at such times as the CFB requires. *See* Admin. Code § 3-703(6), Board Rule 3-02.

The Campaign failed to file Statements 12 and 16.

The Board assessed a penalty of \$1,500 for these violations.

### **4. Failing to provide bank and merchant account statements \$2,250**

Campaigns are required to provide bank records, including periodic bank statements. *See* Admin. Code §§ 3-703(1)(d), (g), and Board Rules 4-01(a), (f). Candidates must identify all depository accounts, including merchant accounts, in the certification. *See* Board Rules 1-11(d), 2-01(a).

The Campaign failed to provide certain statements for a Chase bank account, a Chase credit card account, and a PayPal account. In addition, the Campaign failed to list the Chase credit card on its certification.

The Board assessed a penalty of \$2,250 for these violations.

**5. Failing to report expenditures \$4,203**

Candidates must accurately report all campaign disbursements. *See* Admin. Code §§ 3-703(1)(d), (6), Board Rule 3-03(e).

The Campaign failed to report \$14,019.24 in expenditures that appear in bank statements and \$4,290.76 in expenditures that appear in credit card statements. As discussed in Violation 4, above, the Campaign failed to submit bank, credit card, and PayPal account statements that included activity during the months directly before and following the election, making it likely that even more expenditures were not reported.

The Board assessed a penalty of \$4,203 for these violations.

**6. Failing to document expenditures No Penalty**

Candidates are required to document all expenditures. *See* Admin. Code §§ 3-703(1)(d), (g), (11); Board Rule 4-01(e).

The Campaign failed to document expenditures totaling \$13,415.

The Board did not assess a penalty for this violation.

**7. Failing to accurately report cash receipts \$500**

Candidates must accurately report all Campaign cash receipts. *See* Admin. Code §§ 3-703(1)(d), (6), Board Rule 3-03(c).

The Campaign's bank records indicated a 13.27% variance (\$2,883.71) between reported cash receipts and submitted documentation (\$21,728.71 was reported but only \$18,845.00 was documented on deposit slips).

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

**8. Failing to provide deposit records \$250**

Candidates must accurately document all Campaign receipts. *See* Admin. Code §§ 3-703(1)(d), (g), (6), Board Rule 4-01(b)(1).

The Campaign failed to provide itemized deposit slips for 11 transactions totaling \$5,226.42.

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

**9. Failing to accurately report receipts and disbursements \$500**

Candidates must accurately report all Campaign disbursements and receipts. *See* Admin. Code §§ 3-703(1)(d), (6), (11); Board Rules 3-03(c), (e).

The Campaign's bank records indicated a 24.72% variance (\$16,014.20) between reported receipts and submitted documentation (\$64,770.13 in receipts was reported but only \$48,755.93 was documented). The bank records also indicated a 8.01% variance (\$4,371.53)<sup>1</sup> between reported disbursements and submitted documentation (\$54,543.46 in disbursements was reported but only \$50,171.93 was documented).

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

**10. Accepting five over-the-limit contributions \$20,250**

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). Loans that remain unpaid on the date of the next election become contributions. *See* Board Rules 1-05(a), (h). Debts incurred by a campaign that are forgiven become in-kind contributions. *See* Board Rules 1-04(g)(1), (5). Credit extended to a candidate beyond 90 days becomes an in-kind contribution in the amount of the credit. *See* Board Rule 1-04(g)(4)(i).

The Campaign incurred two \$2,000 liabilities to NYC Tax Masters, on June 30, 2009 and July 31, 2009. These liabilities remain unpaid and therefore are considered a contribution that exceeds the limit by \$1,250.

The Campaign incurred two \$3,500 liabilities to an individual, on June 30, 2009 and July 31, 2009. These liabilities remain unpaid and therefore are considered a contribution that exceeds the limit by \$4,250.

The Campaign received an \$8,500 loan from an individual on August 24, 2009. This loan was outstanding on the date of the election and continues to be unpaid, and therefore is considered a contribution that exceeds the limit by \$5,750.

The Campaign received a \$3,900 loan from an individual on August 27, 2009. This loan was outstanding on the date of the election and continues to be unpaid, and therefore is considered a contribution that exceeds the limit by \$1,150.

On January 9, 2009, an individual made a \$100 contribution to the Campaign. Later in 2009, she made three loans to the Campaign, totaling \$8,500. The Campaign reported repaying the \$8,500 total loan amount on August 27, 2009, but failed to provide a copy of the loan

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<sup>1</sup> This variance does not take into account the \$14,019.24 in unreported expenditures discussed in Violation 5, or any of the unreported activity that would be documented by the missing bank statements discussed in Violation 4.

repayment check. Because the Campaign failed to submit proof that these loans were repaid by the date of the election, they are considered a contribution that exceeds the limit by \$5,850.

The Board assessed a penalty of \$20,250 for these violations.

**11. Failing to document three in-kind contributions \$150**

Candidates are required to document all in-kind contributions. *See* Admin. Code §§ 3-703(1)(d), (g), (11); Board Rule 4-01(c).

The Campaign reported receiving three in-kind contributions but failed to provide documentation for them: 1) \$271.56 from Yudelka Tapia on May 16, 2008, 2) \$500 from Victor Osorio on September 17, 2008, and 3) \$1,250 from Victor Osorio on April 30, 2009.

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

**12. Failing to document receipts \$700**

Candidates are required to document all receipts. *See* Admin. Code §§ 3-703(1)(d), (g), (11); Board Rule 4-01(b).

The Campaign failed to submit documentation for 14 receipts totaling \$4,672.13.

The Board assessed a penalty of \$700 for this violation.

**13. Making cash payments greater than \$100 \$550**

Candidates may not make cash expenditures in excess of \$100 per transaction or purchase. Board Rule 4-01(e)(2). Expenditures in excess of \$100 must be paid using a check from the Campaign's bank account. Board Rules 1-08(i), 4-01(e)(1).

The Campaign made 11 cash payments in excess of \$100.

The Board assessed a penalty of \$550 for this violation.

**14. Maintaining a petty cash fund greater than \$500 \$150**

Candidates may not maintain petty cash funds in excess of \$500. Board Rule 4-01(e)(2).

The Campaign made three cash withdrawals in excess of \$500: 1) \$600 on July 18, 2008, 2) \$1,000 on July 25, 2008, and 3) \$800 on October 6, 2008.

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

**15. Failing to demonstrate that spending was in furtherance of the campaign** **\$211**

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. *Id.*; *see also* Advisory Opinion No. 2007-3 (March 7, 2007).

The Campaign made 16 expenditures totaling \$2,110.56, but failed to provide requested explanations and documentation demonstrating that these expenditures were in furtherance of the Campaign.

The Board assessed a penalty of \$211 for this violation.

**16. Failing to respond to the Initial Request for Documentation** **\$7,882**

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); Board Rule 4-05(a).

CFB staff sent the Campaign an Initial Request for Documentation and Records ("IDR") on November 13, 2009, but the Campaign never responded.

The Board assessed a penalty of \$7,882 for this violation.

**17. Failing to respond to the Draft Audit Report** **\$7,882**

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); Board Rule 4-05(a).

CFB staff sent the Campaign the Draft Audit Report on November 9, 2011, but the Campaign never responded.

The Board assessed a penalty of \$7,882 for this violation.