

Bill de Blasio, Public Advocate (2009)

1. Accepting over-the-limit contributions \$1,625

Campaigns may not accept contributions from a single source in excess of the applicable contribution limit for the entire election cycle. *See* Admin. Code §§ 3-702(8), 3-703(1)(f), (11), (12); Board Rules 1-04(c)(1), 1-04(h), 1-07(c). The contribution limit for Public Advocate in the 2009 election was \$4,950. *See* Admin. Code § 3-703(1)(f). When a Campaign receives a contribution in excess of the contribution limit, it must return the excess portion to the contributor. *See* Board Rule 1-04(c)(1).

The Campaign accepted and subsequently refunded nine over-the-limit contributions. Of these contributions, five were promptly refunded, and four were untimely refunded.

The Board assessed a penalty of \$1,625 for this violation.

2. Accepting corporate contributions \$500

Campaigns may not accept corporate contributions. *See* New York City Charter § 1052(a)(13), Admin. Code § 3-703(1)(l), Board Rule 1-04(e). When a campaign receives a contribution from a prohibited source, it must refund the contribution by bank check or certified check. *See* Board Rule 1-04(c)(1).

The Campaign accepted and timely refunded corporate contributions from two entities: Haym Salomon Home for Nursing, and Sheepshead Nursing and Rehab. The Campaign accepted but failed to refund timely a corporate contribution from North Star Development Corp. LLC.

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

3. Accepting contributions from unregistered political committees \$1,750

Campaigns may not accept a contribution from a political committee unless the committee has registered with the CFB or registers 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). A campaign must return a prohibited contribution by bank check or certified check. *See* Board Rule 1-04(c)(1).

The Campaign accepted contributions from unregistered political committees. It refunded two of these contributions timely and refunded six untimely.

The Board assessed a penalty of \$1,750 for this violation.

4. Accepting over-the-limit Doing Business contributions \$1,250

For individuals who have business dealings with the City, there was a limit of \$400 on contributions to candidates for Public Advocate in the 2009 election, and a limit of \$200 on

contributions to candidates for Public Advocate in the 2009 runoff election. *See* Admin. Code §§ 3-702(18), 3-703(1-a). When a campaign receives a contribution in excess of the limit from contributors who have 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 the Board. *See* Board Rule 1-04(c)(1).

During the pre-election period, the Campaign accepted seven contributions that exceeded the “doing business” limit and failed to issue a refund within 20 days of being notified by CFB staff.

The Board assessed a penalty of \$1,250 for this violation.

5. Failing to file a daily disclosure statement \$300

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).

On September 8, 2009, the Campaign failed to file a required daily disclosure statement to report significant contributions and expenditures that were reported on its subsequent financial disclosure statements.

The Board assessed a penalty of \$300 for this violation.

6. Failing to document specific transactions \$400

Campaigns must maintain records, such as copies of checks, bills and other documentation, that enable the Board to verify the contributions and expenditures reported in disclosure statements. *See* Admin. Code §§ 3-703(1)(d), (g), (11); Board Rule 4-01. Campaigns are required to furnish such records to the Board upon request. *See* Admin. Code §§ 3-703(1)(d), (g). All campaigns are subject to a post-election audit, for which they must furnish certain records, regardless whether the candidate received public funds. *See* Admin. Code §§ 3-703(11), 3-710(1); Board Rule 4-05(a).

The Campaign failed to provide copies of credit card statements to document six check payments, failed to document adequately an in-kind contribution, and failed to document a payment to its worker.

The Board assessed a penalty of \$400 for these violations.

7. Failing to demonstrate compliance with subcontractor reporting requirements \$50

Campaigns which pay vendors that use subcontractors must submit supporting documentation and report the name, address, purpose(s) for subcontracting, and amount paid to any subcontractor which is paid more than \$5,000. *See* Admin. Code §§ 3-703(1)(d), Board Rules 3-03(e)(3), 4-01(h). Compliance with this requirement is accomplished either by submitting the CFB's "Subcontractor Form" completed by the vendor (whether or not the vendor in fact subcontracted goods or services of more than \$5,000), or by submitting evidence of a good faith attempt to contact the vendor to request that the vendor complete the form. *See* Admin. Code §§ 3-703(1)(d), (g); Board Rule 4-01(h).

The Campaign failed to comply with subcontractor reporting requirements with respect to its vendor Astoria Graphics.

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

8. Maintaining a petty cash fund greater than \$500 \$345

A campaign is prohibited from maintaining more than \$500 in its petty cash fund. *See* Board Rule 4-01(e)(2). *See also* Admin. Code §§ 3-703(1)(d), (g), (6).

The Campaign made cash withdrawals on June 2, 2009 and September 25, 2009 which resulted in its petty cash fund exceeding the \$500 limit.

The Board assessed a penalty of \$345 for this violation.

9. Failing to demonstrate that spending was in furtherance of the campaign \$1,598

Campaign funds may only be used to further a candidate's nomination or election. *See* Admin. Code §§ 3-702(21), 3-703(1)(d), (g), (6); Board Rules 1-03(a), 4-01. The Act sets forth certain expenditures that are presumed to be in furtherance of a campaign and provides examples of expenditures that are not. *See* Admin. Code § 3-702(21). To determine 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. *See id.*; CFB Advisory Opinion No. 2007-3 (March 7, 2007).

The Campaign has failed to demonstrate that expenditures totaling \$15,986 were made in furtherance of the Campaign.

The Board assessed a penalty of \$1,598 for this violation.

10. Making improper post-election expenditures \$1,132

Campaigns may make post-election expenditures only for routine activities involving nominal cost associated with winding up a campaign and responding to the post-election audit. *See* Admin. Code §§ 3-703(1)(d), (g), (6); Board Rules 1-03(a), 5-03(e)(2).

The Campaign has failed to demonstrate that expenditures totaling \$11,325 were permissible post-election expenditures based on their timing, amount, and/or purpose.

The Board assessed a penalty of \$1,132 for this violation.

11. Commingling \$10,000

All receipts shall be deposited in an account of the principal committee. *See* Admin. Code § 3-703; Board Rule 2-06(a). “Receipts accepted for one election shall not be commingled in any account with receipts accepted for any other election, except that receipts of a primary and general election for the same office in the same calendar year may be deposited in the same account.” Board Rule 2-06(b). “Receipts deposited in an account shall not be used for any purpose other than the election for which that account was established.” Board Rule 1-03(a)(2). “[T]he candidate may expend, transfer, or use receipts . . . only to pay expenses incurred in that election; no receipts, including receipts accepted for another election, if any, deposited in a separate account as provided in Rule 2-06(b), may be expended, transferred, or used for any other purpose until any required repayments to the Fund have been made and any fines or civil penalties assessed pursuant to the Act have been paid.” Board Rule 1-03(a)(1). “After the participant first receives public funds for an election, the principal committee for that election may not make a transfer to a political committee not involved in that election until all unspent campaign funds from that election have been repaid.” Board Rule 1-03(a)(3). *See* also Board Rule 5-03(e)(2) (restricting post-election spending to routine activities involving nominal cost associated with winding up a campaign and responding to the post-election audit).

CFB staff observed a frequent, substantial, and contemporaneously undocumented flow of funds between the Candidate’s 2009 and 2013 accounts, in violation of the Act and Rules provisions cited above. Expenditures totaling \$32,620.37 could not be allocated to a particular committee as a result of commingling of activity between the 2009 and 2013 campaigns and the Campaign’s inconsistent rationales for allocating expenditures. Numerous transactions were improperly paid for by each committee, and significant liabilities from each to the other accrued.

The Board assessed a penalty of \$10,000 for this violation.

12. Failing to document and/or promptly deposit 30 contributions \$1,550

All receipts shall be deposited in an account of the principal committee. *See* Admin. Code § 3-703. *See* also Board Rule 2-06(a) (providing same). “All monetary contributions must be accepted and deposited, or rejected and returned to a contributor, within 10 business days after receipt.” Board Rule 1-04(b). “Receipts deposited in an account shall not be used for any purpose other than the election for which that account was established.” Board Rule 1-03(a)(2). “Contributions accepted after an election may be used to pay liabilities incurred in that election, subject to the applicable contribution limit and prohibitions, only if deposited in and disbursed from an account established and maintained for that election, as provided in Rule 2-06(b).” Board Rule 1-04(m).

The Campaign informed CFB staff on January 12, 2011 that the Candidate's 2013 committee had accepted contributions that were intended for his 2009 committee. The Campaign was directed to provide, among other things, contribution backup documentation for each contribution. The Campaign failed to provide this contribution backup documentation. As a result, staff could not determine to which committee the contributors actually intended to contribute funds.

The Board assessed a penalty of \$1,550 for these violations.