

KANTOR|DAVIDOFF

Kantor, Davidoff, Mandelker, Twomey, Gallanty & Olenick, P.C.
415 Madison Avenue, 16th Floor
New York, New York 10017
Tel: (212) 682-8383
Fax: (212) 949-5206
www.kantordavidoff.com

Connecticut Office
495 Post Road East
Westport, CT 06880
Tel: (203) 222-1100
Fax: (203) 226-7323

Laurence D. Laufer
Of Counsel
Writer's extension: 720
Writer's e-mail: laufer@kantordavidoff.com

July 13, 2015

BY EMAIL

Peri Horowitz
Assistant Executive Director for Campaign Finance Administration
NYC Campaign Finance Board
100 Church Street
New York, NY 10007

Re: 2014 Administrative Account/Campaign for One New York, Inc.

Dear Ms. Horowitz:

The 2014 Administrative Account (the "Committee") is in receipt of your letter, dated June 18, 2015, (the "June 18 letter") which poses questions concerning a different entity, the Campaign for One New York, Inc. (the "Corporation"). Your letter was addressed to Ms. Kletter, the former treasurer of the Committee.¹ Because Ms. Kletter has no role and no direct knowledge of the activities of the Corporation and because, as you allude in your letter, I am legal counsel to both the Committee and the Corporation, I am responding to your letter.²

The overall question you pose is "whether [the Corporation] is engaging in election-related activity which would trigger the application of the Act to its activities", specifically Admin. Code §3-703(1)(e). Section 3-703(1)(e) states, in full:

1. To be eligible for optional public financing under this chapter, a candidate for nomination for election or election must:

* * *

¹ Ms. Kletter resigned as treasurer effective July 11, 2015 and an amended Filer Registration Form will be submitted to the CFB shortly.

² For reasons that remain unclear to me, the June 18 letter seems to suggest that the Committee's and the Corporation's decisions to each retain my legal counsel is in some way relevant to the CFB's administration of the NYC Campaign Finance Act and the CFB rules. I find this notion unclear and perplexing.

(e) notify the board in the candidate's written certification as to: (i) the existence of each authorized committee authorized by such candidate that has not been terminated, (ii) whether any such committee also has been authorized by any other candidate, and (iii) if the candidate has authorized more than one authorized committee, which authorized committee has been designated by the candidate as the candidate's principal committee for the election(s) covered by the candidate's certification; provided, that such principal committee (i) shall be the only committee authorized by such candidate to aid or otherwise take part in the election(s) covered by the candidate's certification, (ii) shall not be an authorized committee of any other candidate, and (iii) shall not have been authorized or otherwise active for any election prior to the election(s) covered by the candidate's certification. The use of an entity other than the designated principal committee to aid or otherwise take part in the election(s) covered by the candidate's certification shall be a violation of this section and shall trigger the application to such entity of all provisions of this chapter governing principal committees;

Because neither Mr. de Blasio nor the 2014 Administrative Account has submitted a certification pursuant to Admin. Code §3-703(1)(c) for the 2017 City-wide elections, Admin. Code §3-703(1)(e) has no present applicability to the subject of the June 18 letter.

In any event, I take it you are asking whether the Corporation is, in actuality, an "authorized committee" within the meaning of Admin. Code §3-702(7), which states:

The term "authorized committee" shall mean a political committee which has been authorized by one or more candidates to aid or take part in the elections of such candidate or candidates and which has filed a statement that such candidate or candidates have authorized such political committee pursuant to section 14-112 of the election law.

The Corporation is not an authorized committee. The Corporation was not organized to aid or take part in the election of any candidate. Rather, the Corporation was "formed to advocate for One New York and New York City by informing the public and policymakers about legislative and public policy options." See Certificate of Incorporation (copy enclosed).

The Corporation has not accepted any donations that would be subject to the New York City Campaign Finance Act's contribution limits or prohibited source provisions. See Admin. Code §3-702(8) (defining "contribution"). Because it would be a time-consuming exercise for no apparent purpose other than policing the media, I am declining your invitation to review the accuracy of media accounts concerning the Corporation's activities. For this reason I have not reviewed and I offer no comment concerning any of the articles referenced in your letter.

With respect to the issues for which you seek explanation:

1. From time to time, Mayor de Blasio seeks assistance from the Corporation in advocating for one New York and New York City by informing the public and policymakers about legislative and public policy options. The Corporation, in turn, is enthusiastic about assisting the Mayor in his public policy advocacy.

Mr. de Blasio does not, however, participate in, or have any legal rights or responsibilities with respect to the governance of the Corporation and he holds no position with the Corporation. It is not inconceivable to me (although I don't know it for a fact) that Mr. de Blasio may from time to time have made suggestions to the Corporation regarding the appointing, hiring or firing of individuals and firms paid by the Corporation, although Mr. de Blasio has no authority to make such decisions for the Corporation. If Mr. de Blasio has made suggestions to the Corporation in that realm it would likely stem from the Mayor's seeking of assistance from the Corporation in his public policy advocacy.

In any event, because the Corporation makes no contributions to candidates in City elections, any corporate interaction with the Mayor regarding such issues should be of no relevance to the CFB. See CFB Rule 1-04(h)(1)(i)(pertaining solely to multiple contributions from a single source).

2. The Corporation's State lobbying activities, to date, took place and concluded in 2014. These lobbying activities were conducted under the trade name UPK NYC and pertained solely to obtaining State legislative enactment of universal pre-kindergarten for children in the City of New York. Thus, the Corporation's lobbying activities differed from the work of the New York City Office of State Legislative Affairs and any other mayoral agency or office in that the Corporation's lobbying activities were focused only on one State legislative objective, conducted under the trade name UPK NYC, and came to an end with the enactment of universal pre-prekindergarten legislation in 2014.

Guidance has been obtained from the Conflicts of Interest Board (COIB) recognizing that the Corporation's expenditures made in 2015 in support of the Mayor's national-level advocacy of The Progressive Agenda could have been properly paid for with City funds. See COIB Rule 1-01(h)(1). A copy of The Progressive Agenda is enclosed.

3. Neither the Committee nor the Corporation has sought guidance from the New York City COIB on any matter, since neither of these entities is subject to COIB jurisdiction. Representatives of the Mayor, on the other hand, routinely seek guidance from COIB, including on questions regarding the Corporation's activities. See, e.g., Letter of COIB Chairman Nicholas Scoppetta, dated January 8, 2014 (copy

enclosed), which permitted and has provided guidance in relation to the Mayor's efforts to help the Corporation raise funds.

4. In brief, to date, the Corporation's expenditures have concerned enactment and implementation of universal pre-kindergarten in the City of New York (in 2014) and advocacy of The Progressive Agenda at the national-level (in 2015), enactment of which, the Corporation (and the Mayor) believe, would be of enormous benefit to the City of New York and its residents. City tax dollars could have been used for either of these purposes; instead the Corporation stepped forward and supplemented City resources.

Regardless, expenditures for the above-described lobbying and public policy advocacy purposes are not campaign expenditures within the meaning of Administrative Code §3-702(21)(a) or any other provision of the New York City Campaign Finance Act. The Campaign Finance Act's expenditure limits were not intended or drawn to cap the amount of public policy advocacy undertaken by any City elected official or social welfare organization. The CFB has long distinguished similar advocacy from campaign speech and expenditures. See, e.g., CFB AOs 2001-8 and 1993-9.

Should you have any further questions on this subject, I request that you present these to my direct attention. Thank you.

Very truly yours,

KANTOR, DAVIDOFF, MANDELKER,
TWOMEY, GALLANTY & OLENICK, P.C.



LAURENCE D. LAUFER

Enclosures

CSC 45
Drawdown

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New York State
Department of State
Division of Corporations
Albany, NY 12231

CERTIFICATE OF INCORPORATION

OF

CAMPAIGN FOR ONE NEW YORK, INC.

Under Section 402 of the Not-for-Profit
Corporation Law of the State of New York

The undersigned, being of legal age, in order to form a corporation pursuant to the laws of the State of New York, do hereby set forth as follows:

FIRST: The name of the corporation is:

CAMPAIGN FOR ONE NEW YORK, INC.

SECOND: The Corporation is a corporation as defined in subparagraph (a)(5) of Section 102 (Definitions) of the Not-for-Profit Corporation Law.

THIRD: The purpose or purposes for which the corporation is formed are:

The purpose for which the corporation is formed is to advocate for One New York and New York City by informing the public and policymakers about legislative and public policy options.

All solicitations, contributions and expenditures by the corporation shall be made in accordance with applicable laws and regulations and the provisions of this Certificate of Incorporation.

The Corporation shall have and exercise all powers conferred by the laws of the State of New York upon corporations formed under, and may engage in any lawful act or activity, not in conflict with the foregoing, for which the Corporation may be formed under the New York Not-for-Profit Corporation Law.

Notwithstanding any other provision of these articles, the Corporation is organized exclusively as a social welfare organization, within the meaning of section 501(c)(4) of the Internal Revenue Code of 1986, as amended, and shall not carry on any activities not permitted to be carried on by a Corporation exempt from Federal income tax under section 501(c)(4) of the Internal Revenue Code of 1986, as amended.

FOURTH: The corporation shall be a Type A corporation pursuant to Section 201 of the Not-for-Profit Corporation Law.

FIFTH: The office of the corporation is to be located in the County of Kings, State of New York.

SIXTH: The names and addresses of the initial directors of the corporation are:

<u>Name</u>	<u>Address</u>
Bill Hyers	14 Schermerhorn Street #10 Brooklyn, NY 11201
Ross Offinger	141 Lafayette Avenue Brooklyn, NY 10238
Stephanie Yazgi	345 St. Marks Avenue Brooklyn, NY 11238

The number of directors and the method of their appointment shall be determined by the Bylaws of the Corporation, and shall be subject to change from time to time as the bylaws may be amended.

The Directors are empowered to set basic policies with respect to expenditures to be made by the Corporation, and to direct disbursements. The Directors shall determine the procedures for collection and distribution of funds that the Corporation shall issue and the amount of all expenditures and disbursements by the Corporation.

SEVENTH: The Secretary of State is designated as agent of the corporation upon whom process against it may be served. The address which the Secretary of State shall mail a copy of any process accepted on behalf of the corporation is:

Laurence D. Laufer
Genova Burns Giantomasi Webster, LLC
115 Broadway, Suite 1501
New York, New York, 10006

EIGHTH: All of the property of the Corporation and accumulations thereof shall be held and administered to effectuate its purposes. In the case of the liquidation, dissolution, or winding up of the Corporation, whether voluntary or involuntary or by operation of law, any disposition made of the assets or properties of the Corporation shall be such as is calculated to carry out the purposes for which it is formed as set forth

in Article Third.

No part of income of the Corporation shall inure to the benefit of any member, trustee, director, or officer of the Corporation, or any private individual (except that reasonable compensation may be paid for services rendered to or for the Corporation affecting one or more of its purposes).

NINTH: Except as limited by this Certificate of Incorporation or its Bylaws, the Corporation shall have and exercise all rights and powers in furtherance of its purposes as are or may hereafter be conferred on not for profit corporations under the laws of the State of New York.

TENTH: The duration of the Corporation shall be perpetual.

ELEVENTH: Every current or former corporate agent of the Corporation shall be entitled to indemnification to the fullest extent provided in the New York Not-for-Profit Corporation Law as in effect from time to time.

TWELTH: No approvals or consents for the formation of this corporation are required by law.

IN WITNESS WHEREOF, the undersigned incorporator, being at least eighteen (18) years of age, affirms the statements made herein are true under the penalties of perjury this 11th day of December 2013

/s/ Bill Hyers

Bill Hyers, Incorporator
14 Schermerhorn Street #10
Brooklyn, NY 11201

CSC 45
Drawdown

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CERTIFICATE OF INCORPORATION
OF
CAMPAIGN FOR ONE NEW YORK, INC.

Under Section 402 of the Not-for-Profit
Corporation Law of the State of New York

FILED

2013 DEC 12 AM 9:46

RECEIVED

2013 DEC 12 AM 9:16

Filed
by:

Genova Burns Giantomasi
Webster LLC
Trinity Centre
115 Broadway, Suite 1501
New York, New York 10006

Cust Ref # 919338

icc

KXX

STATE OF NEW YORK
DEPARTMENT OF STATE

FILED DEC 12 2013

TAX \$

BY

LMC

STATE OF NEW YORK
DEPARTMENT OF STATE

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.



WITNESS my hand and official seal of the
Department of State, at the City of Albany,
on December 12, 2013.

Anthony Giardina

Anthony Giardina
Executive Deputy Secretary of State



CITY OF NEW YORK
CONFLICTS OF INTEREST BOARD

2 Lafayette Street, Suite 1010
New York, New York 10007
(212) 442-1400
Fax: (212) 442-1407 TDD: (212) 442-1443

January 8, 2014

Lawrence D. Laufer, Esq.
Genova Burns Giantomasi Webster LLC
115 Broadway, 15th Floor
New York, NY 10006

Re: Conflicts of Interest Board Case No. 2013-899 (Bill de Blasio)

Dear Mr. Laufer:

This is in response to your letter, dated December 16, 2013, to the Conflicts of Interest Board (the "Board"), and subsequent communications with Board staff, requesting an opinion as to whether, consistent with the conflicts of interest provisions of Chapter 68 of the New York City Charter, Mayor-Elect Bill de Blasio may, upon taking office as Mayor on January 1, 2014, engage in fundraising on behalf of the Campaign for One New York, Inc. (the "Corporation").

You advise the Board that the Corporation is a newly formed New York not-for-profit corporation that was created to advocate on behalf of the City of New York by informing the public and policymakers about legislative and public policy options; that the Corporation is a charitable organization that is subject to the registration and reporting requirements set forth in New York Executive Law Article 7-A and enforced by the Attorney General's Charities Bureau; that as a social welfare organization it is expected that the Corporation will qualify as a tax exempt organization pursuant to Section 501(c)(4) of the Internal Revenue Code; that in all likelihood the Corporation will be engaged in lobbying and will therefore register and file periodic reports with the Joint Commission on Public Ethics ("JCOPE"); and that the Corporation's expenditures for direct and indirect lobbying activities and the donations that it receives for lobbying activities will be reported to JCOPE, as required.

You further advise that neither Mayor de Blasio nor his wife, Chirlane McCray, will participate in, or have any legal rights or responsibilities with respect to, the governance of the Corporation and that neither Mayor de Blasio nor Ms. McCray will have a position with the Corporation. You also advise, however, that, without limiting the foregoing, among the Corporation's staff or consultants may be individuals who have been or will be employed or retained by a political campaign committee that Mr. de Blasio has authorized to work in support

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of his electoral efforts. In this regard you advise that among the three incorporators (and initial directors) of the Corporation is Bill Hyers, who, the Board is advised, was the manager of Mr. de Blasio's 2013 mayoral campaign.

You advise that Mayor de Blasio and/or Ms. McCray may from time to time be asked by the Corporation to participate in fundraising efforts for the Corporation; that such assistance might include the designation of the Mayor or Ms. McCray as an "honorary chair" of a fundraising campaign; that it is further contemplated that the Mayor may choose to use his official position to solicit funds for the Corporation should he determine that the Corporation's work would support a major initiative of the Office of the Mayor; that the Mayor would solicit such funds consistent with the Board's guidance in Advisory Opinions as Nos. 2003-4 and 2008-6 on targeted and untargeted solicitations; and that Ms. McCray will adhere to the same restrictions on targeted fundraising that will be applicable to the Mayor himself.

Charter Section 2604(b)(2) prohibits a public servant from engaging in any business, or having any private interest, that conflicts with the proper discharge of his or her official duties.

Charter Section 2604(b)(3) prohibits a public servant from using or attempting to use his or her City position to obtain any private advantage for the public servant or for any person or firm associated with the public servant. Charter Section 2601(5) defines those "associated" with a public servant to include a spouse, domestic partner, child, parent, or sibling; a person with whom the public servant has a business or other financial relationship; and each firm in which the public servant has a present or potential interest.

In Advisory Opinion No. 2003-4 the Board addressed the question of fundraising by City officials for the City itself and for not-for-profit entities determined to be closely affiliated with City offices and agencies. The Board reserved, however, the question of "what *other* kinds of not-for-profit entities might be permissible beneficiaries of officials' fundraising." *Id.* at 2 (emphasis added).

In Advisory Opinion No. 2008-6 the Board addressed this reserved question and determined that elected officials and agency heads, and their specified designees, may in their official capacities, using City time and resources, participate in fundraising for certain not-for-profit organizations *not affiliated* with the City, **provided that** (1) the work of the not-for-profit organization must have some nexus with the City and further must support the mission of the elected official or agency head's City office or agency (the Board observed that this latter limitation would not greatly restrict otherwise permissible fundraising of those elected officials "whose official responsibilities are defined quite broadly," such as the Mayor and the Public Advocate; *id.* at 7-8); (2) the elected official or agency head may not be personally associated within the meaning of Charter Section 2601(5) with the not-for-profit organization or its compensated leadership; (3) the fundraising solicitations on behalf of the not-for-profit must comply in all respects with the requirements of Advisory Opinion No. 2003-4, including that the solicitations contain an express statement that a decision whether or not to give will not result in official favor or disfavor and that, as to "targeted" solicitations (as defined in Opinion No. 2003-

4), the "official could [not] solicit any person or firm with a matter 'pending or about to be pending before the City official or his or her agency, where it is within the legal authority or the duties of the soliciting official to make, affect, or direct the outcome of the matter'"; and (4) the elected official or agency head must identify each not-for-profit for which support is solicited in a public report to be filed with the Board by May 15 and November 15 of each year for the sixth-month period ending March 31 and September 30, respectively.

Here, it is the view of the Board that Mr. de Blasio's proposal to solicit funding in his official capacity as Mayor for the Corporation conforms with the requirement of Advisory Opinion No. 2008-6 that the organization must support the mission of the office of the soliciting official, given that the purpose of the Corporation lies in advocating for New York City. In addition, based on your representations, this request likewise satisfies the condition that the soliciting official may not be personally associated, within the meaning of Charter Section 2601(5), with the organization or with its compensated leadership.

More particularly, Mr. de Blasio will not be associated with the Corporation itself because, you advise, he will not have a position at the Corporation nor otherwise have any legal rights or responsibilities with respect to its governance. In addition, he will not be associated with any of the Corporation's staff, inasmuch as his wife, with whom he is associated, will not, you advise, have a position at the Corporation, and inasmuch as he will not be associated with any of the Corporation's employees, including any of his campaign staff who may be employed there. In this regard, it is the view of the Board that a public servant is not associated within the meaning of Section 2601(5) with persons who are employed by campaign committees formed by that public servant for the purpose of seeking elective office. Such individuals are employees of or consultants to the campaign committee, not employees of or consultants to the candidate in question. Moreover, while it is well settled that a public servant will violate Charter Section 2604(b)(3) by supervising an "associated" person, the Board determined in Advisory Opinion No. 2003-6 that the subordinate of a public servant who is seeking elective office may simultaneously serve as staff of the public servant's campaign committee. That result necessarily meant that a public servant/candidate does not become "associated" with the subordinate when the subordinate goes to work for the campaign committee.

Because Mr. de Blasio's proposed solicitation may include "targeted" solicitations, as that term is defined in Advisory Opinion No. 2003-4, any such solicitations may not be addressed to anyone "with a matter 'pending or about to be pending' before the City official making the solicitation, or his or her agency, 'where it is within the legal authority or the duties of the soliciting official to make, affect, or direct the outcome of the matter.'" It is the Board's conclusion that, as applied to the Mayor, the "agency" referred to is the entire executive branch, other than offices of other elected officials, because the Mayor has the legal authority to "make, affect or direct the outcome" of all matters pending before such executive branch agencies. See Charter Section 2604(a)(5). Mayor de Blasio may not, therefore, direct a targeted solicitation to any individual who has, or whose organization has, a matter pending or about to be pending before any such executive branch office or agency. If you have any question about the application of this standard to a particular individual or entity, you should seek further guidance

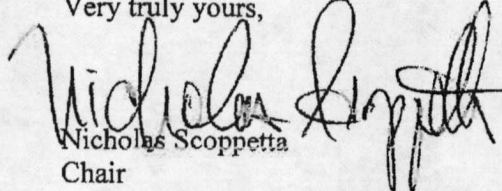
from the Board, giving the nature and status of the specific matter pending or about to be pending before the office or agency in question.

You are accordingly advised that, based on your representations, it would not violate Chapter 68 for Mayor de Blasio to solicit funds for the Corporation and to use City letterhead and resources to do so, **provided that** all such solicitations must include the statement that a decision to give or not give will not result in official favor or disfavor; that the Corporation is identified in each public report to be filed with the Board pursuant to Opinion No. 2008-6 for each six-month period in which the Mayor or his designee undertakes such activity; and that none of these solicitations is targeted to any person or organization with a matter pending or about to be pending before any executive branch office or agency, other than offices of other elected officials.

Finally, you are advised that Mayor de Blasio may not request any public servants who are his subordinates to work for the Corporation, although these subordinates may volunteer to do so. That said, any public servant, whether or not a subordinate of the Mayor, who proposes to serve the Corporation would be well advised to first seek the Board's advice to ensure that this activity would not violate the prohibitions of Chapter 68, including, without limitation, the prohibition in Charter Section 2604(a)(1)(b) against having a position with a firm that has business dealings with the City, the prohibition in Charter Section 2604(b)(6) against compensated communications with the City on behalf of a non-City entity, and the prohibition in Charter Section 2604(b)(13) against receiving compensation except from the City for performing one's City duties.

The advice conveyed expressed in this letter is conditioned on the correctness and completeness of the facts supplied to us. If such facts are in any respect incorrect or incomplete, the advice we have given to you may not apply. If at any time you would like further advice based on a change of circumstances or additional information, please contact us.

Very truly yours,


Nicholas Scoppetta
Chair

Anthony Crowell
Andrew Irving
Burton Lehman
Erika Thomas-Yuille