

David I. Weprin, Comptroller (2009)

1. Accepting over-the-limit contributions \$8,850

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(h), 1-07(c). The contribution limit for candidates running for Comptroller in the 2009 election was \$4,950. *See* Admin. Code § 3-703(1)(f). When a candidate has received a contribution in excess of the contribution limit, the candidate must return the excess portion to the contributor by bank check or certified check made out to the contributor. *See* Board Rule 1-04(c)(1).

The Campaign accepted 31 contributions which were in excess of the contribution limit. The Campaign refunded thirty contributions following notification from CFB staff. The Campaign also accepted a \$7,425 contribution which it did not refund.

The Board assessed a penalty of \$8,850 for these violations.

2. Accepting corporate contributions \$1,125

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 104(e).

The Campaign accepted the following corporate contributions, for which refunds were reported: Standard Realty Associates (\$100); T&H Store Fixtures (\$750); Orlow, Orlow and Orlow PC (\$200); The Baylor Premier Agency (\$1,000); and P&M Contracting Co. (\$250).

The Board assessed a penalty of \$1,125 for these violations.

3. Accepting contributions from unregistered political committees \$11,750

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). A campaign must return a prohibited contribution by bank check or certified check made out to the contributor. *See* Board Rule 1-04(c)(1).

The Campaign reported that it accepted 48 contributions from political committees which were not registered with the CFB at the time. The Campaign did not refund the prohibited contributions to those unregistered political committees in time.

The Board assessed a penalty of \$11,750 for these violations.

4. Accepting over-the-limit “Doing Business” contributions \$1,450

Campaigns may not accept contributions from individuals that have business dealings with New York City government (“the City”) 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), 3-719(2); Board Rules 1-02, 1-04(c)(1), 1-04(h). When a candidate receives a contribution in excess of the limit from contributors who have business dealings with the City, the candidate 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).

The Campaign accepted two contributions of \$500 (\$100 over the limit each), and one contribution of \$1,000 (\$600 over the limit). The Campaign only refunded \$100 of the \$1,000 contribution, resulting in a \$500 remaining overage.

The Board assessed a penalty of \$1,450 for these violations.

5. Failing to file daily pre-election disclosure statements \$250

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: a \$100,000 loan on September 1, 2009, and a \$1,500 contribution from Friends of Joel A. Giambra on September 8, 2009. The Campaign also failed to disclose six expenditures in excess of \$20,000: two to Progressive Strategies Group, three to Sheinkopf, Ltd., and one to Madison Square Partners. The Campaign filed a daily disclosure statement to report expenditures to Madison Square Partners totaling \$27,795 on September 3, 2009; however, the Campaign did not include the \$2,816 expenditure to Madison Square Partners on September 3, 2009, in that statement or a subsequent statement.

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

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), (b)(6), (f).

The Campaign failed to provide some of the bank statements requested by the CFB.

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

7. Failing to report transactions \$400

Campaigns are required to report every contribution, loan, receipt, and disbursement. *See* Admin. Code § 3-703(6); Board Rule 3-03.

The Campaign failed to report eight transactions.

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

8. Failing to document transactions \$100

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 the candidate's disclosure statements. *See* Admin. Code §§ 3-703(1)(d), (g), (11), (12); Board Rule 4-01. Campaigns are required to furnish such records to the Board upon request. *See* Admin. Code §§ 3-703(1)(d), (g). Every candidate is subject to a post-election audit by the Board, for which they must furnish certain records, regardless whether the candidate received public funds. *See* Admin. Code §§ 3-703(11), (12), 3-710(1), 3-719(1)(b); Board Rule 4-05(a).

The Campaign failed to document two transactions.

The Board assessed a penalty of \$100 for these violations.

9. Failing to report credit card expenditures \$200

Campaigns are required to report every contribution, loan, receipt, and disbursement. *See* Admin. Code § 3-703(6); Board Rule 3-03.

The Campaign reported expenditures totaling \$62,796.68, for which it listed American Express as the payee instead of the vendor from whom the goods or services were purchased. The Campaign did not amend its disclosure statements to itemize the underlying expenditures for nine of the reported payments to American Express, four of which exceeded \$100.

The Board assessed a penalty of \$200 for this violation.

10. Failing to demonstrate that spending was in furtherance of the campaign \$100

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 lists expenditures that are presumed to be in furtherance of a campaign and gives examples of expenditures that are not. *See* Admin. Code § 3-702(21). In weighing 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 failed to demonstrate that \$514.25 in expenditures were made in furtherance of the campaign.

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

11. Making improper post-election expenditures \$3,709

After an election and before repaying leftover campaign funds to the Board, Program participants 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 §§ 3-702(21), 3-710; Board Rules 1-03(a), 5-03(e)(2). Further, “an expenditure for goods or services is made when the goods or services are received, used, or rendered, regardless when payment is made.” *See* Board Rule 1-08(b).

The Campaign made four improper post-election expenditures totaling \$37,091.89.

The Board assessed a penalty of \$3,709 for these violations.