

**Final Determination No. 2008-3 (August 14, 2008)**

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**IN THE MATTER OF**

Stringer for New York, Inc.

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The Campaign Finance Board (the “Board”) issues this determination concerning its investigation into the complaint filed by Eva Moskowitz against Stringer for New York, Inc. (the “Stringer Campaign”), Scott Stringer’s (“Stringer”) 2005 campaign for Manhattan Borough President.

Background

Stringer ran for the office of Manhattan Borough President against eight other candidates, including Eva Moskowitz. The Stringer Campaign received a total of \$708,950 in public funds.

On September 6, 2005, the Board received a letter from Arthur Grieg, representing the New York County Democratic Committee, requesting an advisory opinion concerning the legality under Board Rules of the making of automated telephone calls and distribution of literature by the Working Families Party [“WFP”] criticizing Eva Moskowitz. On September 8, the Board received a letter from Eva Moskowitz alleging that the Stringer Campaign was coordinating with the WFP. The letter states that the WFP had made thousands of recorded phone calls attacking Moskowitz, and had subsequently done two mailings, one criticizing Moskowitz and one supporting Stringer. The letter asked the Board to rule that the WFP expenditures would be considered expenditures by the Stringer Campaign. The Board conveyed to the Stringer Campaign a copy of the letter from Ms. Moskowitz, and requested a response.

On September 11, the day before the Democratic primary, the Board received a verified complaint from Eva Moskowitz alleging non-independent, unreported coordinated activities by the WFP on behalf of the Stringer Campaign, including five mailings and numerous recorded phone calls. The complaint attached a letter from Ms. Moskowitz with legal arguments about how the expenditures should not be considered independent, and copies of some of the WFP literature she had described. The Board conveyed a copy of the complaint to the Stringer Campaign.

On September 12, the Board received a response from Laurence Laufer on behalf of the Stringer Campaign, including sworn affidavits from Stringer and the Stringer campaign

treasurer, LeAnn Leutner, stating that the Stringer campaign had no involvement in any activities by the WFP.

On September 16, the Board sent letters requesting sworn testimony from Stringer, Dan Cantor (the executive director of the WFP), and any individuals with knowledge of the Stringer Campaign's communications with WFP. On September 27, the Board took the deposition of Dan Cantor. At the deposition, Mr. Cantor was shown five pieces of campaign literature with the WFP logo, all of which advocated for the Stringer campaign or against the Moskowitz campaign. Mr. Cantor recognized four of the five pieces as having been prepared by the WFP, but he did not know who had created or distributed the fifth piece. On September 28, the Board took the depositions of Stringer and Stringer's campaign manager, David Gringer.

On October 24, the Board sent a letter to the Stringer Campaign requesting further information and sworn statements. On November 3, Mr. Laufer sent a letter responding to the requests for information and enclosing an affidavit from Ms. Leutner.

On December 2, the Board sent a letter to the Stringer Campaign requesting further response to the October 24 letter.

On December 8, the Board sent a letter to the WFP requesting additional information.

On December 19, the Board received a letter from Mr. Laufer enclosing information that had been requested by Board staff. The Board subsequently received sworn statements from three other staffers of the Stringer Campaign on December 21 and December 27.

On January 31, 2006, the WFP submitted a response to the Board's requests for information.

In April 2006, the Board requested and received documentation from various vendors that had provided direct mail, postage and literature preparation services to the WFP. The documentation requested was a description of the services the vendors had provided, the amounts they had charged, the dates of the work and copies of the invoices. Board staff also reviewed the disclosure statements the WFP had submitted to the NYS Board of Elections.

### Applicable Law

Administrative Code §3-702 (8) provides in pertinent part that the term "contribution means:

...(c) any payment, by any person other than a candidate or a political committee authorized by the candidate, made in connection with the nomination for election, or election, of any candidate, including but not limited to compensation for the personal services of any individual which are rendered in connection with a candidate's election or nomination without charge; provided however, that none of the foregoing shall be deemed a contribution if it is made, taken or performed by a person or a political committee independent of the candidate or his or her agents or political committees

authorized by such candidate pursuant to section 14-112 of the New York state election law. For purposes of this subdivision, the term “independent of the candidate or his or her agents or political committees authorized by such candidate pursuant to section 14-112 of the New York state election law” shall mean that the candidate or his or her agents or political committees so authorized by such candidate did not authorize, request, suggest, foster or cooperate in any such activity...[emphasis added]

Board Rule 1-08 (f)(1) lists the factors for determining whether expenditures are independent of the candidate<sup>1</sup>:

(1) Factors for determining whether an expenditure is independent include, but are not limited to:

- i. whether the person, political committee or other entity making the expenditure is also an agent of a candidate;
- ii. whether the treasurer of, or other person authorized to accept receipts or make expenditures for, the person, political committee or other entity making the expenditure is also an agent of a candidate;
- iii. whether a candidate has authorized, requested, suggested, fostered, or otherwise cooperated in any way in the formation or operation of the person, political committee or other entity making the expenditure;
- iv. whether the person, political committee or other entity making the expenditure has been established, financed, maintained, or controlled by any of the same persons, political committees, or other entities as those which have established, financed, maintained, or controlled a political committee authorized by the candidate; and
- v. whether the person, political committee or other entity making the expenditure and the candidates have each retained, consulted, or otherwise been in communication with the same third party or parties, if the candidate knew or should have known that the candidate’s communication or relationship to the third party or parties would inform or result in expenditures to benefit the candidate.

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<sup>1</sup> Under Rule 1-08(f)(4)(ii), the Board may require a candidate to demonstrate that certain expenditures by a party on behalf of its nominee are not in-kind contributions to the nominee-candidate. However, Stringer was not the WFP’s nominee, and thus this provision was not applicable here.

### Conclusion

After extensive investigation, including the receipt of sworn testimony from several representatives of the Stringer Campaign (including Stringer) and the executive director of the WFP, the Board was unable to find evidence of any coordinated activities between the Stringer Campaign and the WFP. Although the WFP endorsed Stringer, Stringer was not the WFP's nominee. Although the expenditures by WFP may have benefited the Stringer Campaign, there is no evidence that the WFP was an agent of the campaign, or that the Stringer Campaign had authorized, requested or cooperated in the expenditures at issue. The complaint is hereby dismissed.

**NEW YORK CITY  
CAMPAIGN FINANCE BOARD**