



## Summary of Final Board Determination

### George McDonald

Candidate, 2013, Mayor

**Non-participant: \$0 in public funds received**

#### **1. Accepting over-the-limit contributions \$34,100**

Campaigns are prohibited from accepting contributions in excess of the applicable contribution limit. *See* Admin. Code §§ 3-702(8), 3-703(1)(f), (11), 3-719(2); Board Rules 1-04(c)(1), (h), 1-07(c). Under the Act, candidates for Mayor may receive contributions from an individual totaling up to \$4,950. *See* Admin. Code §§ 3-702(8), 3-703(1)(f), (11), 3-719(2); Board Rules 1-04(c)(1), (h), 1-07(c). In addition, campaigns may not accept contributions in excess of the “doing business” contribution limits from individuals or entities that have business dealings with the City: \$400 for candidates for Mayor. *See* Admin. Code §§ 3-702(8), (18), (20), 3-703 (1-a), (1-b), 3-719(2); Board Rules 1-04(c)(1), (h).

The Campaign accepted four over-the-limit contributions that it did not refund, five over-the-limit contributions that it refunded after the deadline, and three over-the-limit doing business contributions (see table below).

In its response to the Draft Audit Report (the “DAR”), the Campaign stated that it had accepted the contributions on the advice of legal counsel. *See McDonald v. N.Y.C. Campaign Fin. Bd.*, 965 N.Y.S.2d 811 (N.Y. Sup. Ct. 2013), *aff’d* as modified, 985 N.Y.S.2d 557 (1st Dep’t 2014). The Campaign also stated that, having incurred significant legal fees in connection with the lawsuit, it could not afford to refund the contributions, and that it was attempting to obtain the necessary funds to do so. In response to the Penalty Notice, the Campaign asked that the penalty be reduced because it claimed that there had been significant uncertainty as to whether the law applied to non-participants, the Campaign spent money to remove this uncertainty, and the over-the-limit funds went towards court costs and did not benefit the Campaign during the election.

However, as advised by Board staff prior to its legal challenge, there was no uncertainty in the law prior to the Campaign’s lawsuit, and the Campaign had notice that the contribution limit applied to it. On September 14, 2012 the Candidate signed the Filer Registration, initialing that he verified and agreed that “I have not accepted, and I will not accept, any contribution or contributions from any one contributor for the 2013 elections that exceed(s) the applicable contribution limit set forth in Section 3-703(1)(f) of the New York City Administrative Code.” On September 20, 2012, the Campaign’s Treasurer contacted Board staff to state that he was confused as to why the New York City contribution limits were different from the New York State limits. Staff informed him that the city’s contribution limits superseded the state’s limits. Board staff followed up again in January 4, 2013, to remind the Campaign that even as a non-participant, the contribution limits still applied to the Campaign.

It appears that the Campaign made a conscious choice to exceed the contribution limit and to challenge the limit’s applicability in court. As with all litigation, the Campaign surely knew that



**Summary of Final Board Determination**

there was a chance it would not prevail in court. The Campaign did not prevail and was obligated to abide by the limits.

The Board assessed a penalty of \$34,100 for these violations.

Category	Amount	Amount Over the Limit	Date
Not Refunded	\$10,000	\$5,050	01/16/13
Not Refunded	\$17,000	\$12,050	12/16/12
Not Refunded	\$17,000	\$12,050	12/26/12
Not Refunded	\$19,800	\$14,850	12/15/12
Doing Business- Not Refunded	\$1,000	\$600	05/07/13
Doing Business- Not Refunded	\$1,000	\$600	05/07/13
Doing Business- Not Refunded	\$1,000	\$600	05/07/13
Refunded	Original Contribution: \$5,000 Post-Refund: \$4,950	\$50 \$0	01/09/13 07/29/13
Refunded	Original Contribution: \$5,000 Post-Refund: \$4,950	\$50 \$0	10/18/12 07/29/13
Refunded	Original Contribution: \$5,000 Post-Refund: \$4,950	\$50 \$0	11/26/12 07/29/13

**2. Accepting a corporate contribution \$250**

Campaigns may not accept, either directly or by transfer, a campaign contribution or loan, or guarantee or other security for such loan, from any corporation, limited liability company (LLC), or partnership. *See* N.Y.C. Charter § 1052(a)(13); Admin. Code §§ 3-702(8), 3-703(1)(l), 3-719(2)(b); Board Rules 1-04(c)(1), (e), (g), 1-05. A loan not repaid by the day of the election is considered a contribution subject to the contribution limit. *See* Admin. Code § 3-702(8); Board Rules 1-05(a), (j).

The Campaign accepted a \$120,000 loan from National Enterprises Corp., but did not repay the loan until after the election, and not timely after notification from Board staff.

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



## **Summary of Final Board Determination**

**3. Maintaining a petty cash fund greater than \$500 No Penalty**

Campaigns are prohibited from maintaining more than \$500 in a petty cash fund. *See* Board Rule 4-01(e)(2). The Campaign had petty cash on hand in excess of \$500, but in only one instance and the cash amount did not exceed \$750.

The Board did not assess a penalty for this violation.