



Summary of Final Board Determination

Jean Similien

Candidate, 2013, City Council District 45, Brooklyn
Program participant: \$57,438 in public funds received

1. Accepting a contribution from a corporation \$150

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)(1); Board Rules 1-04(c)(1), (e), (g), 1-05.

The Campaign accepted a \$100 contribution from Technic Driving School, which it refunded after the deadline.

The Board assessed a penalty of \$150 for this violation.

2. Making cash expenditures greater than \$100 \$50

Campaigns are prohibited from making an expenditure greater than \$100 using cash. *See* Board Rules 1-08(i), 4-01(e)(2).

The Candidate made a \$500 cash withdrawal from the Campaign's bank account.

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

3. Converting campaign funds to a personal use \$750

Campaigns are prohibited from converting campaign funds to a personal use. *See* Admin. Code §§ 3-702(21)(b); Board Rules 1-03(a), 2-02.

The Candidate made a \$500 cash withdrawal from the Campaign's bank account, but failed to submit documentation demonstrating the purpose and nature of the withdrawal, indicating that it was made for the Candidate's personal use.

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



Summary of Final Board Determination

4. Failing to document a transaction \$100

Campaigns are required to document all financial transactions, including loans, in-kind contributions, and joint expenditures. *See* Admin. Code §§ 3-703(1)(d), (g), (11), (12), 3-715; Board Rules 1-09, 4-01(a), (c), (g), (k), 4-03.

The Campaign provided a copy of a petition including the Candidate, John F. Gangemi, and two other candidates. It also provided an invoice and reported two payments totaling \$2,500 to Gangemi 2013 for petition operations. However, the Campaign did not provide a breakdown of how the Campaign's portion of the expenditure was determined.

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

5. Failing to demonstrate that spending was in furtherance of the campaign \$3,173

Campaigns are required to demonstrate that all spending was in furtherance of the campaign. *See* Admin. Code §§ 3-702(21)(a), (b); 3-703(1)(d), (g), (6), (11); Board Rules 1-03(a), 4-01(e).

The Campaign reported two \$600 expenditures on September 7, 2013 to an individual for "entertainment" services provided for an event on that date. The Campaign did not submit a satisfactory explanation for the expenditures, and did not report contributions or expenditures that would indicate that it held a fundraising or Get Out The Vote event on September 7, nor did it provide documentation to demonstrate that such an event occurred.

The Campaign reported an expenditure of \$17,250 to ACC R-68 for services including the hiring, training, and monitoring of campaign workers as well as a bank reconciliation, and expenditures to Antoine Coq, the president of ACC, related to rent. However, the Campaign did not provide all of the information requested, including how the payment amount to ACC was calculated, or the time and cost of providing each service. Specifically, the documentation that the Campaign provided for the bank reconciliation does not constitute work product sufficient to substantiate the amount the Campaign paid for this service. Additionally, information suggests that the vendor, who was also the Campaign's landlord, was significantly overpaid, rendering the expenditures related to the bank reconciliation non-campaign related. Pursuant to CFB staff's approximation of the proportional hours spent on each type of service, the value of the services performed totaled \$11,495, rather than the \$17,250 paid to ACC. The Campaign did not provide copies of the reports it claims were submitted by ACC, or any other documentation to show that these expenditures were in furtherance of the campaign.

The Board assessed a penalty of \$3,173 for these violations.



Summary of Final Board Determination

6. Making impermissible post-election expenditures \$100

After an election and before repaying leftover campaign funds to the Board, 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)(a)(8), 3-703(1)(d), (g), (6), (11), 3-710(2)(c); Board Rules 1-03(a), 1-08(b), 5-03(e)(2).

The Campaign’s bank statements include three unreported payments of \$15.95 each to Bls*Wix Com on October 17, November 18, and December 17, 2013. In addition, debit withdrawals from Bls*Wix Com continued to appear on the Campaign’s bank statements from January 2014 through April 2014. The Campaign did not demonstrate that the withdrawals were for permissible post-election expenditures.

The Board assessed a penalty of \$213 for this violation.

7. Late response to the Draft Audit Report \$1,148

Campaigns are required to maintain records, such as copies of checks, invoices, and bank records, to verify financial transactions reported in disclosure statements, and campaigns are required to provide such records to the Board upon request and to respond to specific questions regarding compliance with the Act and Rules. *See* Admin. Code §§ 3-703(1)(d), (g), (6), (11), (12), 3-708(5), 3-710(1); Board Rules 1-09(a), 4-01, 4-05(a).

The Campaign did not respond to the Draft Audit Report (the “DAR”). However, because it provided substantive responses to issues raised in the DAR, the Campaign’s response to the Penalty Notice is considered a late response to the DAR.

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

8. Submitting false contribution reporting and documentation \$300

Campaigns are required to maintain documentation for all contributions. *See* Board Rule 4-01. Campaigns must also report to the CFB every contribution, as well as the full name, residential address, occupation, employer, and business address of the contributor. *See* Admin. Code §3-703(6)(a); Board Rule 3-03(c). A contribution must be in the true name of the contributor. This means that contributors may not make contributions in the name of someone else, and contributors may not be reimbursed by someone else for their contributions. Campaigns may not knowingly receive or report contributions given in the name of someone other than the true contributor. *See* New York State Election Law §14-120.

A “matchable contribution” is a contribution not greater than the applicable contribution limit, made by an individual New York City resident, that has been reported fully to the CFB. *See* Admin. Code §3-702(3); Board Rule 5-01(d).



New York City Campaign Finance Board

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Summary of Final Board Determination

“The intentional or knowing furnishing of any false or fictitious evidence, books or information to the board...or the inclusion in any evidence, books, or information so furnished of a misrepresentation of a material fact, or the falsifying or concealment of any evidence, books, or information relevant to any audit by the board or the intentional or knowing violation of any other provision of [the Act]...” shall subject the Campaign to penalties and the recovery of any public funds obtained. *See* Admin. Code § 3-711(3).

The handwriting and signatures of certain reported contributors looked significantly different from the other purported handwriting and signatures of the same reported contributor, suggesting that the contribution cards were not signed by the person whose name appears on the card. Additionally, different cards provided for the same contributor listed different addresses.

The Campaign submitted a letter from one purported contributor. The signature on the letter matches the signature on one of her contribution cards, as well as the check corresponding to that contribution. However, it does not match the signature on her first two contribution cards, nor do the signatures on those two cards match each other. This indicates that the Campaign submitted false documentation to substantiate those two contributions, totaling \$50.

The Board assessed a penalty of \$300 for these violations.