



Summary of Final Board Determination

[John Waldman \(Lisyanskiy\)](#)¹

Candidate, 2013, City Council District 47

Program participant: \$92,400 in public funds received

1. Accepting over-the-limit contributions \$1,536

Campaigns are prohibited from accepting contributions in excess of the applicable contribution limit. *See* Admin. Code §§ 3-702(8), 3-703(1)(f), (11); Board Rule 1-04(c)(1). An in-kind contribution is a gift or payment or anything of value given to or made for a campaign. Admin Code § 3-702(8); Board Rule 1-02. An in-kind contribution is also a campaign expenditure. Board Rule 1-04(g).

The Campaign accepted contributions from one contributor totaling \$5,500, and promptly refunded the over-the-limit amount upon notice from the Board. The Campaign also accepted contributions totaling \$3,811.53 from another contributor, including an in-kind contribution of \$1,061 of coordinated expenditures (see penalty #3 below).

The Board assessed penalties of \$1,536 for these violations.

2. Making impermissible post-election expenditures \$161

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); Board Rules 1-03(a), 1-08(b), 5-03(e)(2).

The Campaign made impermissible post-election expenditures totaling \$647.29.

The Board assessed a penalty of \$161 for this violation.

3. Cooperating in expenditures reported to be independent \$3,561

A campaign must account for and report non-independent activity conducted on its behalf. The Act defines “independent” activity as that which a candidate or a candidate’s committee “did not authorize, request, suggest, foster or cooperate” with. Admin. Code § 3-702(8). If *not* independent, these expenditures are in-kind contributions, which must be reported and which are

¹ Mr. Lisyanskiy has legally changed his last name to Waldman. CFB documents, including the agency website, refer to the candidate as Lisyanskiy.



Summary of Final Board Determination

considered both contributions and expenditures, subject to the contribution and expenditure limits. See Admin. Code §§ 3-702(8), 3-703(6); Board Rules 1-02, 1-04(g), 1-08(f)(1), (3), 3-03.

The Board found that the Campaign cooperated in [expenditures of \\$1,061 by Evgeny Freidman](#), from whom the Campaign rented office space, for a flyer to promote the campaign that were reported to be independent. The Board found that the campaign communicated with a third party and knew or should have known that communication would inform or result in expenditures to benefit the campaign.

On August 30, 2013, a consultant (“Consultant 1”) contacted CFB staff seeking guidance regarding expenditures on behalf of a candidate whom he declined to name. He described how he had met with the candidate in May 2013 and offered to do work for the campaign. The candidate declined his offer, but gave him contact information for a friend of the candidate who might be interested in making expenditures on behalf of the campaign. Consultant 1 stated that he then contacted the potential spender and the spender decided to fund expenditures including posters.

On September 8, 2013, CFB staff received a photo of a flyer (poster) promoting the Campaign marked “Paid for by Evgeny Freidman.” On September 9, staff sent the photo to the Campaign, along with a letter stating that while the flyer purported it had been produced independently, if Mr. Freidman or an entity controlled by Mr. Freidman rented space to the Campaign, the expenditure for the flyer would not be independent, but rather an in-kind contribution to the Campaign.

On September 17, a consultant to Freidman at Herald Strategies, LLC (“Consultant 2”), contacted CFB staff for guidance on filing an independent spending disclosure statement. He asked whether a filing should be made if the expenditure was not independent, stating that his client, Freidman, had “dealings with the candidate.” He also said that Freidman had received a letter from the CFB concerning whether his expenditures were independent. However, because Freidman had not submitted a filing as of September 17, he was not sent a letter by the CFB. Presumably the letter referenced by the consultant was the one sent to the Campaign, which is another indication that Freidman and the Campaign were still in communication in September 2013.

CFB staff advised that if Freidman’s expenditure was not independent, an independent expenditure filing should not be submitted, but rather Freidman should give the Campaign documentation of the expenditure so the Campaign could report an in-kind contribution.

On September 18, Consultant 2 told CFB staff that he had decided to submit an independent expenditure disclosure because the Campaign had refused to accept the in-kind contribution, and he wanted to ensure that Freidman met his reporting obligation. CFB staff reminded Consultant 2 that in order to submit a filing, the filer must affirm that the expenditures were made independently, to the best of the filer’s knowledge. CFB staff stated that if the Board later determined that the communications were not independent, then both the Campaign and the filer could be subject to penalties, but assured Consultant 2 that the submission of a good faith filing would not be held against the spender. CFB staff explained Board Rule 1-08(f), in particular the provision regarding



Summary of Final Board Determination

renting space from an alleged independent spender, and informed Consultant 2 that staff was in the process of investigating the relationship between the Campaign and the Spender. Consultant 2 said that he knew that Consultant 1 had been in contact with CFB staff and that Consultant 1 had passed along the client, Freidman, to him. Freidman subsequently reported making independent expenditures supporting Lisyanskiy valued at \$1,061.53.

After an investigation, on March 12, 2015, the Board found that Mr. Freidman's expenditure of \$1,061.53, though reported to be independent, was coordinated with the Campaign, and assessed penalties against Mr. Freidman of \$3,561, which he did not contest and paid.

When the Candidate directed Consultant 1 to Freidman, he knew or should have known that any relationship between the two would inform or result in expenditures to benefit the Campaign. The Candidate spoke with Consultant 1, who recommended Consultant 2, who was subsequently retained by Freidman in connection with the expenditures. Even if there was no direct communication between Lisyanskiy and Consultant 2, there was an obvious connection between the Campaign, the consultants, and the spender, and Consultant 2's statement, as recorded by staff in the contact record, that the Spender "had dealings with the candidate" supports the conclusion that such communication took place.

The Board assessed a penalty of \$3,561 for this violation.