



Summary of Final Board Determination

Carlton Berkley
Candidate, 2013, City Council District 16, Bronx
Program participant: \$0 in public funds received

1. Failing to provide bank statements \$194

Campaigns are required to provide copies of all bank and merchant account statements for accounts used for each election. *See* Admin. Code §§ 3-703(1)(d), (g), (11); Board Rule 4-01(f).

The Campaign failed to submit statements for its TD Bank account (ending in 2166) for February 2013, and August 2013 through present.

The Board assessed a penalty of \$194 for these violations.

2. Failing to demonstrate compliance with cash receipts reporting and documentation requirements \$104

Campaigns are required to report all cash receipts, deposit them into the bank account listed on the candidate's filer registration and/or certification, and provide the deposit slips for the account to the Board. *See* Admin. Code §§ 3-703(1)(d), (g), (6), (10), (11), (12); Board Rules 1-04(a), (b), 2-06(a), 3-03(c), 4-01(a), (b)(1), (3), (f).

The Campaign reported \$6,170 in cash receipts, but the deposit slips the Campaign has provided account for \$7,235 in cash receipts, a difference of \$1,065. This constitutes a variance of 17.26% between the cash receipts reported and documented by the Campaign.

The Board assessed a penalty of \$104 for these violations.

3. Failing to demonstrate compliance with reporting requirements for receipts and disbursements \$290

Campaigns are required to demonstrate compliance with the reporting requirements and are required to provide bank records, including bank statements and deposit slips. *See* Admin. Code §§ 3-703(1)(d), (g), (6), (11), (12); Board Rules 1-09, 3-03(c), (d), (e), 4-01.

The Campaign reported \$12,630 in receipts, but the bank statements the Campaign has provided account for only \$7,540 in receipts, a difference of \$5,090. This constitutes a variance of 40.30% between the receipts reported and documented by the Campaign.

The Campaign reported \$8,852.51 in disbursements, but the bank statements the Campaign has provided account for only \$4,544.91 in disbursements, a difference of \$4,307.60.



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This constitutes a variance of 48.66% between the disbursements reported and documented by the Campaign.

The Board assessed a penalty of \$290 for these violations.

4. Failing to file a disclosure statement \$290

Campaigns are required to file complete and timely disclosure statements on scheduled dates. *See* N.Y.C. Charter § 1052(a)(8); Admin. Code §§ 3-703(6), (12), 3-708(8); Board Rules 1-09, 3-02.

The Campaign failed to file Disclosure Statement 16, which was due January 15, 2014.

The Board assessed a penalty of \$290 for this violation.

5. Accepting contributions from corporations, limited liability companies, or partnerships \$687

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); Board Rules 1-04(c)(1), (e), (g), 1-05. Creditors who extend credit beyond 90 days are considered to have made a contribution equal to the credit extended, unless the creditor continues to seek payment of the debt. Outstanding liabilities that are forgiven or settled for less than the amount owed are also considered contributions. *See* Board Rules 1-04(g)(4), (5).

The Campaign reported receiving a \$25 contribution from 4Control Media, Inc., on August 11, 2013, and refunding it on September 4, 2013, but failed to submit proof of the refund. It reported receiving a \$500 contribution from Emdin & Russell, LLP, on August 20, 2013, and refunding it on August 30, 2013, but failed to submit proof of the refund. It reported two expenditures to The Copy Store & Office Supplies, Inc. on February 15, 2013 – \$122.69 and \$122.00. However, these expenditures do not appear on the bank statements and therefore are in-kind contributions from a corporation.

The Board assessed a penalty of \$687 for these violations.

6. Failing to document transactions \$78

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 reported a \$313 outstanding liability to Costco, incurred January 18, 2013, in Disclosure Statement 7. It deleted this transaction, and failed to report or document this liability



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as either remaining still outstanding, or being paid, on subsequent disclosure statements. Thus, the liability may have been paid by someone other than the Campaign.

The Campaign reported three expenditures that do not appear on bank statements: 1) \$225 to Colorgraphicsrus, paid March 11, 2013, 2) \$900 to Sam's Restaurant, paid August 11, 2013, and 3) \$610 to Cedric Durant, paid September 3, 2013. The Campaign failed to submit documentation for these expenditures demonstrating that they either remained outstanding, or were paid. Thus, they may have been forgiven by the vendor or paid by someone other than the Campaign.

The Board assessed a penalty of \$78 for this violation.

7. Failing to report and document basic campaign functions/activities \$194

Campaigns are required to report and document all financial transactions, including basic categories of expenditures such as postage, printing, rent, and petitioning. *See* Admin. Code §§ 3-702(8), 3-703(1)(d), (g), (6), (11), (12); Board Rules 1-02, 1-04(g), 1-08(a), (b), (c), (h), 1-09, 3-02, 3-03(e), 4-01.

Although the Candidate ran in the primary election, which required the Campaign to copy and circulate petitions, the Campaign failed to report or document any petitioning expenses.

The Board assessed a penalty of \$194 for this violation.

8. Making cash expenditures greater than \$100 \$28

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

The Campaign withdrew \$720 on March 11, 2013. It did not report withdrawing this amount, but instead reported Petty Cash of \$500 and paying Colorgraphicsrus \$225 via debit on that date.

The Board assessed a penalty of \$28 for this violation.

9. Failing to respond to the Initial Documentation Request \$500

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).



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The Campaign failed to respond to the Initial Documentation Request, which had a response deadline of December 27, 2013.

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

10. Failing to respond to the Draft Audit Report \$500

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 failed to respond to the Draft Audit Report, which had a response deadline of April 1, 2015.

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