



## Summary of Final Board Determination

### **Miguel Estrella**

**Candidate, 2013, City Council District 10**

**Program participant: \$0 in public funds received<sup>1</sup>**

#### **1. Failing to report transactions \$203**

Campaigns are required to properly report all financial transactions to the Board. *See* Admin. Code §§ 3-703(1)(d), (g), (6), (11), (12), 3-719(1); Board Rules 1-09, 3-03(c), (d), (e), 4-01. The Campaign did not report transactions totaling \$10,558.51 that appear in its bank records. It also failed to report \$1,450 in contributions for which it provided copies of contribution checks.

The Board assessed a penalty of \$203 for these violations.

#### **2. Failing to demonstrate compliance with cash receipts reporting and documentation requirements \$970**

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), 3-719(1); Board Rules 1-04(a), (b), 2-06(a), 3-03(c), 4-01(a), (b)(1), (3), (f).

The Campaign reported \$6,610 in cash receipts, but the deposit slips provided account for \$529 in cash receipts, a difference of \$6,081. This constitutes a 91.99% variance.

The Board assessed a penalty of \$970 for this violation.

#### **3. Failing to demonstrate compliance with receipts and disbursements reporting and documentation requirements \$957**

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), 3-719(1); Board Rules 1-04(a), (b), 2-06(a), 3-03(c), 4-01(a), (b)(1), (3), (f).

The Campaign reported \$11,922 in receipts, but the bank statements provided account for \$14,669 in receipts, a difference of \$2,747. This constitutes a 23.04% variance. The Campaign reported \$4,032 in disbursements, but the bank statements provided account for \$14,875.90 in disbursements, a difference of \$10,843.90. This constitutes a variance of 268.95%.

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<sup>1</sup> Because the Campaign did not receive public funds and the application of standard penalty amounts would result in penalties disproportionate to the size of the Campaign, the Board limited the total penalty assessment to 15% of the Campaign's aggregate receipts (\$4,908). This cap excludes the penalty for converting campaign funds to a personal use and material misrepresentation and fraud.



## Summary of Final Board Determination

The Board assessed a penalty of \$957 for these violations.

### **4. Failing to file a disclosure statement \$478**

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), 3-719(1); Board Rules 1-09, 3-02. The Campaign failed to file Disclosure Statement 8.

The Board assessed a penalty of \$478 for this violation.

### **5. Accepting an over-the-limit contribution \$258**

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). A 2013 City Council candidate could contribute no more than \$8,250 to his or her own campaign. See Admin. Code § 3-703(1)(h).

The Campaign accepted contributions from the Candidate totaling \$8,304, including a \$1,000 monetary contribution and \$7,304 in advances that were not repaid.

The Board assessed a penalty of \$258 for this violation.

### **6. Accepting contributions from corporations, limited liability companies, or partnerships \$1,723**

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. The Campaign accepted contributions totaling \$1,700 from corporations.

The Board assessed a penalty of \$1,723 for these violations.

### **7. Failing to report basic campaign functions and activities \$319**

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), 3-719(1); Board Rules 1-02, 1-04(g), 1-08(a), (b), (c), (h), 1-09, 3-02, 3-03(e), 4-01. The Campaign did not report or document petitioning expenditures, such as printing or labor costs.

The Board assessed a penalty of \$319 for this violation.



## Summary of Final Board Determination

**8. Failing to demonstrate that spending was in furtherance of the campaign** **VNP**

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 made ATM withdrawals totaling \$470. It stated that the withdrawals were for campaign worker wages and provided statements of receipt for five workers' wages totaling \$190. However, each of the ATM withdrawals occurred after the 2013 primary and general elections, the statements of receipt did not indicate when the workers provided services, and the Campaign only reported wage payments to the Campaign's treasurer.

The Campaign also made a \$430 expenditure to an individual and stated that it was payment for services provided by Castillo Producer of NY ("Castillo"). However, the Campaign failed to provide documentation to show that the individual was associated with Castillo and authorized to accept payment on its behalf. Therefore these expenditures are not in furtherance of the campaign.

The Board did not assess a penalty for this violation.

**9. Converting campaign funds to personal use** **\$856**

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 Campaign made expenditures totaling \$685.39 that were for personal use. They included a \$500 payment to the treasurer's boyfriend and \$185.39 for restaurant meals and gas. The Campaign provided documentation demonstrating that the expenditures were made, but not that they were in furtherance of the campaign. The Campaign stated that the payment to the treasurer's boyfriend was for "public relations," but did not provide any further explanation.

The Board assessed a penalty of \$856 for these violations.

**10. Material misrepresentation and fraud** **\$10,000,  
breach of certification**

"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 "submission of a disclosure statement which the participant knew or should have known includes substantial fraudulent matchable



## **Summary of Final Board Determination**

contribution claims” and the “submission of substantial information [or documentation] which the participant...knew or should have known was fabricated or falsified, which would avoid a finding of violation or public funds repayment determination” each constitute a “fundamental breach of the obligations affirmed and accepted by the participant...in the certification.” Board Rule 2-02.

The Campaign submitted copies of sequential money orders for contributions totaling \$2,625 and submitted matching claims totaling \$1,400 for 14 of these contributions. The Campaign made contradictory and misleading statements as to who purchased the money orders and when. CFB staff reached six individuals who denied or did not recall making contributions, and did not reach a single money order contributor who confirmed that he or she made the contribution reported by the Campaign.

The Campaign also submitted cash contribution documentation exhibiting substantially similar handwriting and signatures. CFB staff reached twelve individuals who denied or did not recall making contributions, and only reached one contributor who confirmed making the contribution.

Finally, CFB staff identified three contributors for whom contribution documentation had been submitted by other campaigns. In each instance, the signatures on the Estrella Campaign contribution cards did not match the signatures on the contribution cards submitted by the other campaigns.

The Campaign submitted disclosure statements which it knew or should have known included substantial fraudulent matchable contribution claims, and submitted substantial information and documentation that it knew or should have known was fabricated or falsified. As such, this violation constitutes a breach of the Candidate’s Certification.

The Board assessed a penalty of \$10,000 and found the campaign in breach of certification for this violation.