



## Summary of Final Board Determination

### **Erlene King**

**Candidate, 2013, Council District 45**

**Program participant: \$43,260 in public funds received**

- 1. Failing to report merchant account used for campaign purposes** **\$250**

Campaigns are required to establish and maintain a separate campaign bank account and to report all bank, merchant, and depository accounts used for campaign purposes. *See* Admin. Code §§ 3-703(1)(c), (d), (g), (6), (10), (11); Board Rules 1-11(d), 2-06, 4-01(f).

The Campaign failed to disclose a Bank of America merchant account.

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

- 2. Failing to provide merchant account statements** **\$500**

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 provide statements for its CyberSource merchant account from December 2013 to the present or statements for its undisclosed Bank of America merchant account from inception to the present.

The Board assessed total penalties of \$500 for these violations.

- 3. Failing to demonstrate compliance with cash receipts reporting and documentation requirements** **\$712**

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 \$4,435 in cash receipts but deposited \$7,285, a difference of \$2,850 (a variance of -64.26%). Although the Campaign provided documentation and explanations, the difference between the reported cash deposits and actual cash deposits remains.

The Board assessed a penalty of \$712 for this violation.



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**4. Failing to demonstrate compliance with reporting requirements for receipts \$250**

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), 3-719(1); Board Rules 1-09, 3-03(c), (d), (e), 4-01.

The Campaign reported \$54,190 in receipts, but deposited \$57,799.04, a difference of \$3,609.04 (a variance of -6.66%).

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

**5. Filing a late disclosure statement \$50**

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 filed Statement 16, due on January 15, 2014, one day late.

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

**6. Making a cash expenditure greater than \$100 \$50**

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 made a cash expenditure of \$150 for an air conditioner.

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

**7. Failing to demonstrate that spending was in furtherance of the campaign \$180**

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). ). Expenditures for travel in a private car must be documented by a travel log. Campaign Finance Handbook, p. 57; Travel Expenses Guidance Document, <http://www.nycffb.info/PDF/TravelExpenses.pdf>.



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(a) The Campaign failed to demonstrate that the Campaign Manager’s alleged payment of \$720 in cash to 36 election day workers for meals was in furtherance of the Campaign, because it failed to provide an explanation from him or receipts from the workers.

(b) The Campaign contracted with a Campaign driver from June 15 – November 11, 2013 for a flat fee. He worked for the Campaign on 121 of the 144 days through general election day. Although the Candidate used the driver for a few personal trips that were not in furtherance of the Campaign, the use did not create additional Campaign expenditures.

The Board assessed a penalty of \$180 for violation (a) and no penalty for violation (b).

### **8. Late response to Initial Documentation Request and Draft Audit Report \$915**

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), 3-719(1)(b); Board Rules 1-09(a), 4-01, 4-05(a).

The Campaign filed its response to the Initial Documentation Request (“IDR”) 22 days late, and its response to the Draft Audit Report (“DAR”) one day late.

The Board assessed a penalty of \$865 for the late response to the IDR and \$50 for the late response to the DAR.