



**New York City
Campaign Finance Board**

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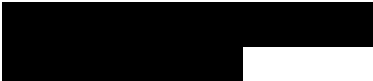
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October 18, 2012

By First Class Mail and C-ACCESS

Maria Baez



Felix Baez
Treasurer, Baez 2009



Baez 2009



FINAL BOARD DETERMINATION – EC2009 CAMPAIGN

The New York City Campaign Finance Board (“Board”), at a meeting held on October 18, 2012, made the following final determination concerning the Maria Baez 2009 Campaign (“Campaign”):

Violations and Penalties

The Board determined that the Candidate, the Treasurer, and the Committee named above violated the New York City Campaign Finance Act (“Act”) and Board Rules and are jointly and severally liable for paying \$45,200 in penalties as follows:

Candidate ID Number: 591

1. A penalty of \$100 for accepting a contribution from a partnership. *See* Admin. Code § 3-703(1)(l); Board Rule 1-04(c)(1), (e). The Campaign accepted a \$100 contribution from Cohen & Siegel LLP and refunded it promptly after notice from CFB staff.

2. A penalty of \$500 for accepting two contributions from one individual that together exceeded the contribution limit for individuals or entities that have business dealings with New York City government by \$250. *See* Admin. Code §§ 3-702(8), (18), (20), 3-703(1-a), (1-b); Board Rules 1-02, 1-04(c)(1), 1-04(h). The Campaign failed to refund the over-the-limit portion of the contribution.

3. A penalty of \$935 for failing to demonstrate that a nether committee's expenditures were not used in furtherance of the Campaign. *See* Admin. Code §§ 3-702(2), 3-703(1)(e); Board Rules 2-01, 2-06, 1-08. Campaigns have the burden to show why expenditures made by any committee other than the principal committee should not be attributed to the campaign's first election following the expenditure. *See* Board Rule 1-08(c)(1)(i); Advisory Opinion 1997 -6 (June 24, 1997) . The Campaign failed to demonstrate that expenditures by Baez for the Future (BFTF) were not made in connection with the 2009 primary. BFTF failed to report nearly \$10,000 in expenditures to the New York State Board of Elections and these expenditures may have been made in connection with the 2009 primary election.

4. A penalty of \$650 for filing a disclosure statement 13 days late. *See* N.Y.C. Charter § 1052(a)(8); Admin. Code §§ 3-703(6), (12); 3-708(8); Board Rules 1-09(a), 3-02. The Campaign filed Statement 12 on October 8, 2009, 13 days after the deadline.

5. A penalty of \$250 for failing to provide bank statements. *See* Admin. Code §§ 3-703(1)(d), (g); Board Rules 4-01(a), (f). The Campaign failed to provide bank statements from November 19, 2009 through the present.

6. A penalty of \$200 for failing to comply with subcontractor reporting requirements. *See* Admin. Code §§ 3-703(1)(d), (g), (6); Board Rules 3-03(e)(3), 4-01(h). The Campaign paid Metro Strategies LLC \$57,464, yet did not provide a completed Subcontractor Disclosure Form for the vendor, or evidence of a good faith attempt to obtain this information.

7. A penalty of \$15,254 for accepting an unreported in-kind contribution from an LLC. *See* Admin. Code §§ 3-702(8), 3-703(1)(l), (6); Board Rules 1-04(c)(1), (e), (g), 3-03(c). Debts incurred by a campaign that are forgiven, and extensions of credit where a vendor has not made a commercially reasonable attempt to collect a debt, become in-kind contributions. *See* Admin. Code § 3-702(8); Board Rule 1-04(g). The Campaign incurred a liability of \$15,004 to Metro Strategies, LLC, but failed to provide

documentation that it paid this debt, a current invoice showing that Metro Strategies still expects payment, or any documentation showing that the vendor made commercially reasonable efforts to collect this debt.

8. A penalty of \$1,089 for accepting an over-the-limit contribution. *See* Admin. Code §§ 3-702(8), 3-703(1)(f); Board Rules 1-04(c)(1), (g). The Campaign reported a contribution from David Weprin 2009 (Weprin 2009) of \$2,750 and in addition, due to joint expenditures for literature, the costs of which were not properly attributed to each campaign, accepted two unreported in-kind contributions from Weprin 2009 in the amounts of \$421.82 and \$417.46. *See* Violation 11. Accordingly, the Campaign accepted a \$3,589 contribution from Weprin 2009, which is \$839 over-the-limit.

9. A penalty of \$280 for accepting a contribution from an unregistered political committee. *See* Admin. Code §§ 3-703(1)(k), 3-707; Board Rule 1-04(c)(1), (d). The Campaign accepted a \$30 contribution from an unregistered political committee and did not refund the contribution.

10. A penalty of \$150 for failing to report three in-kind contributions. *See* Admin. Code §§ 3-702(8), 3-703(6); Board Rules 1-04(g), 3-03(c). Debts incurred by a campaign that are forgiven, and extensions of credit where a vendor has not made a commercially reasonable attempt to collect a debt, become in-kind contributions. *See* Admin. Code § 3-702(8); Board Rule 1-04(g).

The Campaign rented a truck displaying a promotional campaign message from Accurateye. The invoice did not include the sales tax of \$443.75, and the Campaign did not show that the vendor still expected payment. The Board assessed a penalty of \$50.

CFB observers interviewed two individuals who stated that they were paid workers for the Campaign. The Campaign did not report paying them and no payment to them appears on Campaign bank statements, thus, the workers' salaries, totaling \$205 may have been paid by a third party. The Board assessed a penalty of \$100.

11. A violation with no penalty for failing to report in-kind contributions from other campaigns. *See* Admin. Code §§ 3-702(8), 3-703(6); Board Rule 1-04(g), 1-08(h), 3-03(c).

The Campaign produced a joint flyer with the Thompson and the Weprin campaigns and paid one third of the cost, when due to the relative prominence of the Candidate's appearance on the flyer, the Campaign should have paid approximately five-ninths. The difference of \$843.63 is considered an in-kind contribution from the other campaigns and one-half, or \$421.82, is considered a in-kind contribution from the Weprin campaign. *See* Violation 8.

The Campaign produced a palm card with the Weprin campaign, and reported a liability for one-half of the cost, when due to the relative prominence of the Candidate's

appearance on the card, the Campaign should have been responsible for approximately three-fourths of the total. The difference of \$417.46 is considered an in-kind contribution from the Weprin campaign. *See* Violation 8.

12. A penalty of \$17,975 for exceeding the expenditure limit. *See* Admin. Code §§ 3-703(1)(i), 3-706, 3-711(2)(a); Board Rules 1-08(a), (c), (d), (l). The expenditure limit for City Council campaigns in the 2009 primary election was \$161,000. The Campaign exceeded the expenditure limit by \$8,987, which is 5.58% over the limit.

13. A penalty of \$750 for failing to document fifteen transactions. *See* Admin. Code § 3-703(1)(d), (g); Board Rules 4-01. The Board assessed a penalty of \$100 for failing to provide copies of two pieces of campaign literature, a penalty of \$400 for failing to provide timesheets for eight workers, and a penalty of \$250 for failing to provide signed timesheets for five workers.

14. A penalty of \$50 for failing to document and correctly allocate a joint expenditure. *See* Admin. Code § 3-703(1)(d), (g), (6); Board Rule 3-03(c), 4-01. The Campaign produced a piece of joint literature, with the Weprin campaign, represented by Metro Strategies Invoice #318, and reported and paid the full amount of the invoice. The Campaign failed to correctly allocate the campaigns' share of the costs.

15. A penalty of \$7,017, which represents 10% of the public funds received by the Campaign, for failing to respond to the Draft Audit Report. *See* Admin. Code §§ 3-703(1)(d), (g), (11), 3-708(5), 3-710(1), 3-711(1); Board Rules 1-09(a), 4-01, 4-05. The DAR for the Campaign was issued on September 9, 2010, but, with the exception of providing bank statements that it had provided previously, the Campaign has not responded.

Public Funds Calculation

The Board determined that the Campaign must return Public Funds as follows:

Type of Repayment¹	Amount
1. Qualified Expenditure Deficit	\$27,762
2. Final Bank Balance	Not Applicable ²
3. Overpayment of Public Funds Based on Valid Matching Claims	Not Applicable ³

¹ For explanations of the types of repayments, see the Public Funds Notice sent to the Campaign on August 17, 2012.

² This Amount is not applicable because the Campaign's bank account has a balance of \$0.

³ This Amount is not applicable because the Campaign did not receive public funds in excess of its valid matching claims, multiplied by the applicable matching factor.

The Qualified Expenditure Deficit is the largest Amount. Accordingly, the Committee named above will be responsible for repaying \$27,762 in public funds.⁴

The Board determined that the amount due is \$72,962 (\$45,200 in penalties and \$27,762 in public funds).

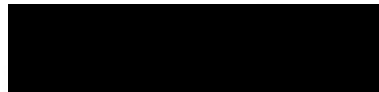
You must pay to the Board the full amount due of \$72,962 no later than November 26, 2012. Checks should be made payable to the "New York City Election Campaign Finance Fund," and mailed to the attention of Katharine Loving, Associate Counsel, New York City Campaign Finance Board, 40 Rector Street, 7th Floor, New York, New York 10006, or delivered to the offices of the Board.

If the Board is not in receipt of the full \$72,962 by November 26, 2012, the candidate's name and the unpaid amount will be posted on the Board's Website and the Board may initiate a civil action against the Candidate, the Treasurer and the Committee for the penalty amount and against the Committee for the public funds amount.

You may challenge a public funds calculation in a petition for Board reconsideration within thirty days of the date of the Final Audit Report as set forth in Board Rule 5-02(a). However, the Board will not consider the petition unless the Campaign submits new information and/or documentation and shows good cause for its previous failure to provide this information or documentation.

You may also challenge this final determination, within four months, in the New York State Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.

If you need additional time to pay this amount or if you have any questions concerning this Final Board Determination, please contact Katharine Loving, Associate Counsel, at (212) 306-7120 or kloving@nyccfb.info.



[signature on original]

Sue Ellen Dodell
General Counsel

**NEW YORK CITY
CAMPAIGN FINANCE BOARD**

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⁴ The Board collects public funds repayments in whole dollar amounts.