



Summary of Final Board Determination

John Liu

Candidate, 2013, Mayor

Program participant: \$0 public funds received

1. Failing to report transactions \$134

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. Campaigns are required to report the candidate's personal contributions of \$99 or more to political committees that support candidates in New York City and throughout New York State (except political committees of other candidates). Such contributions are presumptively campaign expenditures, unless the candidate rebuts the presumption. *See* Board Rule 3-03(e)(5); CFB Final Determination No. 2009-1.

The Campaign failed to report four transactions totaling \$6,168.18: a \$200 debit on July 3, 2013; a \$688.35 withdrawal on August 29, 2013; a \$918.29 withdrawal on September 4, 2013; and a \$4,361.54 check to an unknown payee on January 10, 2014. Additionally, the Candidate made unreported contributions to Central Brooklyn Independent Democrats totaling \$550.

The Board assessed a penalty of \$134 for these violations.

2. Accepting over-the-limit contributions \$250

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 Rules 1-04(c)(1), (h), 1-07(c).

The Campaign accepted over-the-limit contributions from two individuals, and timely refunded the over-the-limit portions of the contributions.

The Board assessed a penalty of \$250 for these violations.

3. Accepting contributions from corporations, limited liability companies, or partnerships \$750

Campaigns may not accept, either directly or by transfer, a campaign contribution or 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. *See* Board Rules 1-04(g)(4), (5).



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The Campaign accepted contributions from Ragusa Limousine Service and Sajid Kahn MD PC, which it timely refunded. It also accepted a contribution from Michael S. Yau MD PC, which it refunded after the deadline. Additionally, the Campaign held a fundraiser at the Law Office of Jacques Leandre and was not billed for the using the venue.

The Board assessed a penalty of \$750 for these violations.

4. Accepting a contribution from an unregistered political committee \$125

Campaigns may not accept a contribution from a political committee unless the political committee is registered with the CFB or registers with the CFB within 10 days of receipt of the contribution. *See* Admin. Code §§ 3-702(11), 3-703(1)(k), 3-707; Board Rules 1-04(c)(1), (d), (g), 1-05.

The Campaign accepted a \$1,000 contribution from Local 420 AFSCME AFL-CIO PAC, an unregistered political committee, which it timely refunded.

The Board assessed a penalty of \$125 for this violation.

5. Failing to document transactions \$700

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, but failed to adequately document, four in-kind contributions. Due to the lack of documentation, the fair market value of the in-kind contributions could not be substantiated. In addition, the Campaign reported three joint expenditures for the printing of petitions and palm cards, but failed to provide samples of the petitions or palm cards, or documentation showing the total cost of the expenditures. Thus, the Campaign's fair share of the expenditures could not be verified.

The Board assessed a penalty of \$700 for this violation.

6. Failing to demonstrate compliance with intermediary reporting and documentation requirements \$4,100

Campaigns are required to report the intermediary for each contribution that was delivered or solicited by an intermediary. In addition, campaigns are required to provide a signed intermediary affirmation statement for each intermediated contribution. *See* Admin. Code §§ 3-703(1)(d), (g), (6), (11); Board Rules 3-03(c)(7), 4-01(b)(5).

The Campaign did not report intermediaries for eight contributions totaling \$5,475, which



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appear to have been intermediated. The Campaign did not submit an intermediary affirmation statement for sixteen reported intermediaries. Additionally, transactions totaling \$24,723 listed in the Campaign's reporting as intermediated do not match the transactions listed on the intermediary statements. Multiple transactions totaling \$5,835 on intermediary statements were not reported as intermediated.

The Board assessed a penalty of \$4,100 for these violations.

7. Failing to demonstrate that spending was in furtherance of the campaign **No Penalty**

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 reported an expenditure of \$217.75 for the towing of a vehicle rented for field operations. However, the Campaign did not provide any documentation to substantiate its explanation of why the vehicle was used, and did not report vehicle rental expenses or an in-kind contribution for the vehicle.

The Board did not assess a penalty for this violation.

8. Material misrepresentation and fraud **\$20,000**

“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 following are considered to constitute a “fundamental breach of the obligations affirmed and accepted by the participant or limited participant in the certification”:

(a) submission of a disclosure statement which the participant knew or should have known includes substantial fraudulent matchable contribution claims;

[and]

(e) submission of substantial information which the participant or limited participant knew or should have known was false, or the submission of substantial documentation which the participant or limited participant knew or should have known was fabricated or falsified, which would avoid a finding of violation or public funds repayment determination.



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Board Rule 2-02.

On October 12, 2011, an article in *The New York Times* identified serious irregularities in the Campaign's reporting, raising questions about nominee contributions, false reporting, and the lack of intermediary reporting by the Campaign. See "Doubts Raised on Donations to Comptroller," *The New York Times*, October 11, 2011 (available at <http://www.nytimes.com/2011/10/12/nyregion/irregularities-found-in-john-lius-campaign-finance-reports.html>).

Criminal complaints were filed against Xing Wu Pan ("Pan"), a Campaign fundraiser and intermediary, and Jia Hou ("Hou"), then the Campaign's treasurer, by the United States Attorney for the Southern District of New York on November 16, 2011, and February 28, 2012 respectively. Hou resigned as treasurer in March 2012. On May 2, 2013, Hou was convicted in federal court of three felonies arising from conduct related to her role as treasurer: attempted wire fraud, obstructing a grand jury investigation, and making false statements. *United States of America v. Xing Wu Pan, a/k/a "Oliver Pan," and Jia Hou, a/k/a "Jenny Hou"* (S1 12 Cr. 153 (RJS)). Pan was convicted on charges related to his participation in a straw donor scheme to raise money for the Campaign. Contributions made by straw donors, also known as nominee contributions, are those made in the name of the straw donor or nominee with money received from or reimbursed by another person or entity.

On July 19, 2013, the CFB delivered to the Campaign a copy of a report prepared by Thacher Associates (the "Thacher report") and noted the continued presence of Campaign staff who were implicated in the illegal activities that were the subject of the trial. The CFB also noted that "[b]ased on the trial record, the Thacher report, and the information above [concerning Campaign staff], CFB staff anticipates that it will not recommend to the Board that the Campaign is eligible for a public funds payment." On August 5, 2013, the Board determined that the Campaign was ineligible to receive a public funds payment.

On March 12, 2014, the Candidate filed a complaint against the CFB in federal court, claiming that the Board's determination not to award public funds violated the Candidate's Constitutional rights. On March 31, 2015, the district court granted in part the CFB's motion to dismiss the complaint. *Liu v. New York City Campaign Finance Bd.*, 2015 WL 1514904. The court found that the plaintiffs had failed to plead facts in support of its First or Fourteenth Amendment claims, and emphasized that its decision to allow one portion of the First Amendment claim to survive the motion to dismiss – regarding a portion of the catch-all provision of Board Rule 5-01(f), which the Board has since amended – was "not a referendum on whether the CFB's denial of matching funds to Liu's campaign in 2013 was justified." The case was subsequently dismissed in its entirety on September 29, 2016. On January 25, 2016, the Second Circuit Court of Appeals upheld the convictions of Hou and Pan.

The conduct underlying Hou's and Pan's convictions is contrary to, and impedes enforcement of, the Act and Board Rules. The use of straw donors obscures the true source of funds, and represents an attempt to obtain matching funds in violation of the Act and Board Rules.



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The submission of falsified documentation and reporting makes it impossible for the Board to rely on the Campaign's reporting and documentation of any of its contributions, and is incompatible with the obligations of the certification that the Candidate signed.

As treasurer, Hou is legally indistinguishable from the Campaign and the Candidate. Moreover, in addition to Hou, the Campaign continued to employ and rely on individuals whose conduct and role in Campaign fundraising was implicated by the trial testimony. Specifically, Sharon Lee ("Lee") testified that she offered to reimburse contributors, and Mei Hua Ru ("Ru") had significant responsibility and oversight of campaign fundraising during the time of the straw donor scheme. In 2013, the Campaign reported more than \$25,000 in payroll expenses to Lee and more than \$36,000 to Ru.

As detailed above, evidence introduced at trial and/or discovered by the CFB's own investigation demonstrates that the Campaign:

- 1) engaged in or was aware of the reimbursement—actual and offered—of reported contributions (a straw donor scheme), creation of false contribution documentation, filing of false disclosure statements, and omission of information from disclosure statements;
- 2) submitted false documentation to the CFB for nominee contributions, *i.e.* each contribution card and each instrument submitted to the CFB that stated the name of the nominee rather than the true donor; and
- 3) made false matching claims and documentation for nominee contributions in an attempt to fraudulently obtain public matching funds.

Additionally, in its first two disclosure statements, filed in January 2011 and July 2011, the Campaign did not identify any contributions as having been intermediated. In January 2012, subsequent to *The New York Times*' report and inquiries by the CFB, the Campaign amended its prior disclosure statements to identify 592 intermediated contributions, including some that were later connected to the straw donor scheme. Because intermediary information is a significant factor in identifying nominee contributions, the Campaign's initial omission of intermediary information obstructed public disclosure and impeded enforcement of the Act and Board Rules.

The Board assessed a penalty of \$20,000 for these violations.