



## Summary of Final Board Determination

### Fernando Cabrera

Candidate, 2013, City Council District 14

Program participant: \$23,100 in public funds received

#### **1. Failing to report transactions \$93**

Campaigns are required to properly report all financial transactions to the Board. *See* Admin. Code §§ 3-703(1)(d), (g), (6), (11), (12); Board Rules 1-09, 3-03(c), (d), (e), 4-01.

The Campaign accepted a \$200 contribution from JFA Food Corp. and a \$200 contribution from 60 W. 183 St. Food Court. It issued, but failed to report, two certified refund checks to these contributors. The Candidate also made three contributions totaling \$4,250 to the Bronx Democratic County Committee (“Bronx Democratic”) between July 2010 and January 2012. Personal contributions from candidates to political committees that support candidates in New York City are presumed to be in furtherance of the campaign and must be disclosed. Bronx Democratic supports candidates in the City, and the Campaign failed to overcome the presumption that the Candidate’s personal contributions to the committee were in furtherance of the Campaign.

The Board assessed a penalty of \$93 for these violations.

#### **2. Accepting in-kind contributions from corporations or limited liability corporations \$773**

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 received a \$123 discount off the cost of goods or services provided by Zippityprint LLC, an Ohio limited liability corporation. In addition, the Campaign held a fundraiser at the Monte Carlo Room (“Monte Carlo”), which is operated by Jerome Restaurant Corp. (“JRC”). The invoice for this event was paid for by Carlos Abrue, Monte Carlo’s president and JRC’s CEO, and reported as an in-kind contribution. The Campaign failed to show that Abrue paid the invoice in a personal capacity and not as a corporate entity.

The Board assessed a penalty of \$773 for these violations.



## **Summary of Final Board Determination**

### **3. Failing to document joint expenditures \$100**

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 provided a copy of a \$681.67 invoice from Century Direct for its “proportional share of the 2013 Bronx Democratic County Designating petitions.” The Campaign failed to provide documentation showing the total cost of the expenditure or a basis for the stated cost allocation.

The Board assessed a penalty of \$100 for this violation.

### **4. 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(8), (21)(a), (b); 3-703(1)(d), (g), (6), (11); Board Rules 1-03(a), 4-01(e).

On February 2, 2013, the Campaign ordered \$145.79 in “New Birthday Assortment” and “With Sympathy” greeting cards from Staples. The Campaign failed to explain how the purchase of these greeting cards furthered the campaign.

The Campaign accepted a \$200 contribution from JFA Food Corp. and a \$200 contribution from 60 W. 183 St. Food Court. It issued two refund checks, which did not clear the bank after a few weeks, and then issued two more \$200 certified checks. The original checks eventually cleared the bank, resulting in a total of \$400 in excess contribution refunds. These excess payments were not in furtherance of the campaign.

The Board did not assess a penalty for these violations.



## **Summary of Final Board Determination**

### **5. Making an impermissible post-election transaction**

**No penalty**

After an election and before repaying leftover campaign funds to the Board, participants may spend campaign funds only to pay campaign-related expenses incurred in the preceding election and for “routine activities involving nominal cost associated with winding up a campaign and responding to the post-election audit.” See Admin. Code §§ 3-702(21)(a)(8), 3-703(1)(d), (g), (6), (11), 3-710(2)(c); Board Rules 1-03(a), 1-08(b), 5-03(e)(2).

On March 25, 2014, the Campaign made a \$33,000 transfer from the Committee account to the bank account of a different committee, Cabrera for Senate. The CFB staff notified the Campaign that it was required to return all leftover campaign funds to the Board before making such a transfer. On July 29, 2014, the Campaign returned the full \$23,100 it had received in public funds.

The Board determined that this was a violation, but did not assess a penalty.