



## New York City Campaign Finance Board

100 Church Street, 12<sup>th</sup> Floor, New York, NY 10007

212.409.1800 | [www.nycffb.info](http://www.nycffb.info)

# Summary of Final Board Determination

## Evgeny Freidman

### Independent Spender (2013)

#### 1. Making expenditures that were coordinated with a campaign \$1,061

The Act defines “independent” activity as that in which a candidate or a candidate’s committee “did not authorize, request, suggest, foster or cooperate.” Admin. Code § 3-702(8). If not independent, expenditures are in-kind contributions, which are considered both contributions and expenditures, subject to the contribution and expenditure limits. *See* Board Rule 1-08(f)(1), (3).

Factors for determining whether an expenditure is independent include, but are not limited to:

- 1) whether the person, political committee, or other entity making the expenditure is also an agent of a candidate;
- 2) whether the treasurer of, or other person authorized to accept receipts or make expenditures for, the person, political committee, or other entity making the expenditure is also an agent of a candidate;
- 3) whether a candidate has authorized, requested, suggested, fostered, or otherwise cooperated in any way in the formation or operation of the person, political committee, or other entity making the expenditure;
- 4) whether the person, political committee, or other entity making the expenditure has been established, financed, maintained, or controlled by any of the same persons, political committees, or other entities as those which have established, financed, maintained, or controlled a political committee authorized by the candidate;
- 5) whether the person, political committee, or other entity making the expenditure and the candidates have each retained, consulted, or otherwise been in communication with the same third party or parties, if the candidate knew or should have known that the candidate’s communication or relationship to the third party or parties would inform or result in expenditures to benefit the candidate; and
- 6) whether the candidate, any agent of the candidate, or any political committee authorized by the candidate shares or rents space for a campaign-related purpose with or from the person, political committee, or other entity making the expenditure.

Board Rule 1-08(f)(1). The Board considers various types of evidence of non-independent activity in evaluating third party expenditures, including without limitation common vendors and shared office space. *See* CFB Advisory Op. 2009-7 (Aug. 6, 2009) (“A.O. 2009-7”).

During the 2013 election cycle, Friends of John Lisyanskiy (“the Campaign”) paid rent to Graphete Realty for an office at 1411 Neptune Avenue in Brooklyn. Upon information and belief, this property is owned by Almaz Realty, whose CEO is Evgeny Freidman (“Freidman”), and the lease was signed by “G. Freidman” as landlord/agent for Graphete Realty LLC.

On August 31, 2013, a consultant (“Consultant 1”) contacted CFB staff seeking guidance regarding potentially non-independent expenditures on behalf of a candidate whom the consultant declined to name. Consultant 1 had met with the candidate in May 2013 and discussed doing work for the campaign. The candidate declined, but gave Consultant 1 the contact information for a friend of his who might be interested in making expenditures on behalf of the campaign. Consultant 1 contacted the potential spender in late June or early July and discussed ideas for such expenditures. Even though Consultant 1’s last contact with the candidate was in May, CFB staff advised Consultant 1 that because the candidate had directed him to the spender, any expenditures made by that spender on behalf of the campaign would not be independent. Consultant 1 asked if he could resolve the situation by recommending a different consultant to work with the spender. CFB staff advised him that this would not necessarily suffice to make the expenditures independent.

On September 17, 2013, a consultant to Freidman (“Consultant 2”) contacted CFB staff for guidance on filing a disclosure statement. In the course of the conversation, Consultant 2 asked whether he should file if the expenditure was not independent, because Freidman “had dealings with the candidate.” He also noted that Freidman had received a letter from the CFB concerning whether expenditures related to a flier promoting Lisianskiy, which was marked “Paid for by Evgeny Freidman,” were non-independent.<sup>1</sup> CFB staff advised that if the expenditure was not independent, no filing should be submitted, but rather Freidman should give the Campaign documentation of the expenditure so that the Campaign could report it as an in-kind contribution. The next day, during another conversation with CFB staff, Consultant 2 referenced the August 31 conversation between CFB staff and Consultant 1, and identified himself as the consultant whom Consultant 1 had recommended to the spender.

Rule 1-08(f)(1)(v) provides that a factor in determining whether an expenditure was independent is “whether the person . . . making the expenditure and the candidates have each retained, consulted, or otherwise been in communication with the same third party or parties, if the candidate knew or should have known that the candidate’s communication or relationship to the third party or parties would inform or result in expenditures to benefit the candidate[.]” When Lisianskiy directed Consultant 1 to Freidman, he knew or should have known that any relationship between the two would inform or result in expenditures to benefit the Campaign.

On September 18, Freidman reported making independent expenditures supporting Lisianskiy valued at \$1,061.53. Consultant 2 contacted CFB staff again on September 18. He stated that the Campaign had refused to accept the in-kind contribution, and thus had submitted an independent expenditure disclosure to ensure that Freidman met his reporting obligation. CFB staff reminded Consultant 2 that in order to submit a filing via IEDS, the spender affirmed that the expenditures were made independently, to the best of the filer’s knowledge. CFB staff stated that if the Board later determined that the communications were not independent, then both the Campaign and the filer could be subject to penalties, but assured Consultant 2 that the submission of a good faith filing would not be held against the spender. CFB staff explained Board Rule 1-08(f), in particular the

---

<sup>1</sup> CFB staff had become informed of this flier by a representative for one of Lisianskiy’s opponents on September 8. Freidman had established an account in the CFB’s Independent Expenditure Disclosure System (“IEDS”), but had never submitted a filing. On September 9, CFB staff sent a letter to the Campaign, noting the flier and Board Rule 1-08(f)(1)(vi), and advising the Campaign that “if Mr. Freidman or any entity controlled by Mr. Freidman shares space with or rents space to the Campaign, any expenditure made by Mr. Freidman or such entity would not be independent of the Campaign.” Because Freidman had not submitted a filing, he was not sent a letter by the CFB. Presumably the CFB letter referenced by the consultant was the one sent to the Campaign.

provision regarding renting space from an alleged independent spender, and informed Consultant 2 that staff was in the process of investigating the relationship between the Campaign and the Spender.

The Board assessed a penalty of \$1,061 for this violation.

## 2. Material misrepresentation

**\$2,500**

An expenditure by an individual or entity referring to a candidate, that was authorized, requested, suggested, fostered by, or cooperated in by such candidate or the opponent of such candidate, or their agents, is not an independent expenditure and must not be reported as such. *See* Board Rule 13-05.

In advance of making his first IEDS filing, Freidman signed a form that included the following:

- I understand that I am responsible for the accuracy and completeness of all disclosure statements filed from this IEDS account . . .
- I understand that the failure to abide by the requirements of NYC Charter § 1052(a)(15) and Chapter 13 of the CFB's Rules may result in penalties of up to \$10,000 per violation.
- I understand that intentionally or knowingly making a false written statement to the CFB, including but not limited to in the form of an electronic submission, is a Class A misdemeanor pursuant to NYC Charter § 1052(a)(15)(d) and New York state Penal Law section 210.45.

Additionally, before submitting each filing made via IEDS, Freidman affirmed, *inter alia*, the following statements:

- I hereby verify that I have reviewed this disclosure statement and that it is true and complete to the best of my knowledge.
- I hereby verify that to the best of my knowledge, information, and belief, the expenditures reported in this disclosure statement that refer to any candidate in a covered election were not authorized, requested, suggested, fostered, or cooperated in by such candidate, any opponent of such candidate, or any agent of such candidate or opponent.
- I understand that the failure to abide by the requirements of NYC Charter § 1052(a)(15) and Chapter 13 of the CFB's Rules may result in penalties of up to \$10,000 per violation.
- I understand that intentionally or knowingly making a false written statement to the CFB, including but not limited to in the form of an electronic submission, is a Class A misdemeanor pursuant to NYC Charter § 1052(a)(15)(d) and New York state Penal Law section 210.45.
- I have read and understand the foregoing. I understand that by clicking the submit button below I am electronically signing and filing a disclosure statement with the New York City Campaign Finance Board.

As described in violation #1, Freidman made coordinated expenditures with the Campaign in the amount of \$1,061. Freidman's submission of a disclosure statement reporting those expenditures as independent constitutes misrepresentation of a material fact and a knowing and intentional violation of the Charter and Board Rules.

The Board assessed a \$2,500 penalty for this violation.