



Summary of Final Board Determination

Ricardo Brown

Candidate, 2013, City Council District 31, Queens

Program participant: \$0 public funds received

1. Failing to report bank and merchant accounts used for campaign purposes \$500

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 report an account in the name of Ricardo Brown, CPA, used for the deposit of campaign contributions and to make campaign expenditures. Four of the lease payments reported by the Campaign do not appear on the statements of the Campaign's reported bank account, and notes provided by the Campaign state that the CPA account was used to lease space, indicating that the Campaign used the unreported account to pay rent. Additionally, the Campaign used Democracy.com as a platform to collect contributions but did not report an associated merchant account.

The Board assessed a penalty of \$500 for these violations.

2. Failing to provide bank/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 bank and merchant account statements for its TD Bank account from January 11, 2014 – present, and two other bank accounts from inception – present.

The Board assessed a penalty of \$500 for these violations.

3. Failing to report transactions \$201

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 did not report twelve transactions, totaling \$10,067.19, that appear on its bank statements.

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



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4. Failing to demonstrate compliance with cash receipts reporting and documentation requirements \$887

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); Board Rules 1-04(a), (b), 2-06(a), 3-03(c), 4-01(a), (b)(1), (3), (f).

The Campaign reported \$16,393 in cash receipts, but the deposit slips provided only account for \$12,845 in cash receipts, a difference of \$3,548 (a variance of 21.64%).

The Board assessed a penalty of \$887 for this violation.

5. Failing to demonstrate compliance with reporting requirements for receipts and disbursements \$3,000

Campaigns are required to demonstrate compliance with 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); Board Rules 1-09, 3-03(c), (d), (e), 4-01.

The Campaign reported \$59,811 in receipts, but the bank statements provided only account for \$21,920 in receipts, a difference of \$37,891 (a variance of 63.35%).

The Campaign reported \$58,909.06 in disbursements, but the bank statements provided only account for \$21,935.37 in disbursements, a difference of \$36,973.69 (a variance of 62.76%).

The Board assessed a penalty of \$3,000 for these violations.

6. Filing late disclosure statements \$1,300

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 Disclosure Statement 8 twenty-six days late, and Disclosure Statement 14 eleven days late.

The Board assessed a penalty of \$1,300 for these violations.

7. Failing to demonstrate compliance with subcontractor reporting and documentation requirements \$50

If a campaign makes an expenditure to a vendor that relied on subcontractors to provide the goods or services to the campaign, and the cost of the subcontracted goods or services provided by a single subcontractor exceeds \$5,000, the campaign must report, in addition to the expenditure,



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the name and address of the subcontractor, the amount(s) of the expenditure(s) to the subcontractor, and the purpose(s) of the subcontracting. The candidate must also obtain and maintain documentation from each vendor that used subcontractors. *See* Admin. Code §§ 3-703(1)(d), (g), (6), (11); Board Rules 3-03(e)(3), 4-01(h).

The Campaign stated that Brown Young & Co. (which it paid \$81,784) provided Get Out The Vote services through Eclate Management LLC, indicating that the vendor used at least one subcontractor, but the Campaign did not provide a completed subcontractor form, or evidence of an attempt to obtain the form.

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

8. Accepting over-the-limit contributions \$8,450

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). A loan not repaid by the day of the election is considered a contribution subject to the contribution limit. 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). Candidates may make contributions to their own campaigns in an amount not exceeding three times the limit for other contributors. *See* Admin. Code §3-703(1)(h).

The Campaign accepted aggregate contributions from the Candidate, including loans not repaid by the day of the general election, totaling \$15,200. This exceeds the limit for what City Council candidates may contribute to their own campaigns by \$6,950.

The Board assessed a penalty of \$8,450 for these violations.

9. Accepting contributions from corporations, limited liability companies, or partnerships \$1,451

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)(1); 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). A loan not repaid by the day of the election is considered a contribution subject to the contribution limit.

The Campaign accepted and failed to return the following contributions from entities listed on the New York State Department of State's website as corporations, partnerships, and/or LLCs: \$99.12 from Henricas Restaurant; \$32 from Piquant; \$20 from The Door; \$50 from Tri State Auto Glass; and \$5,000 from Brown Young & Co., Inc.



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The Board assessed a penalty of \$1,451 for these violations.

10. 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 purchased \$50 gift certificates from Trader Joe's for two volunteers, but did not report any expenditures to Trader Joe's, indicating that a third party purchased the gift certificates.

The Campaign submitted a solicitation for a fundraiser held at Hibachi International Chinese and Japanese Grill, but did not report any expenditures related to this event, indicating that the costs of the event were covered by a third party, or that goods and services were provided by the event space free of charge.

The Campaign reported two expenditures totaling \$641.41, but payments for the expenditures do not appear on the Campaign's bank statements, nor are they reported as outstanding liabilities, indicating that the expenditures were paid by third parties or that goods and services were provided by vendors free of charge.

The Campaign reported an outstanding liability of \$115 related to a fundraiser at Clippers on November 3, 2013, and provided documentation indicating that it was a joint expenditure, but did not provide documentation or explanations detailing how the Campaign's share of the joint expenditure was calculated.

The Campaign provided a copy of a petition featuring the Candidate, Jack Hidary, and Everly Brown, but did not report or document the cost of the petition or explain how its share was calculated.

The Campaign provided a September 2013 "business card statement" for an account and indicated that the account was used to make campaign-related purchases. Expenditures made on behalf of the Campaign by this account are considered in-kind contributions to the Campaign.

The Board assessed a penalty of \$700 for these violations.

11. Failing to report and document basic campaign functions/activities \$500

Campaigns are required to report and document all financial transactions, including basic categories of expenditures such as postage, printing, rent, and petitioning. *See* Admin. Code §§ 3-702(8), 3-703(1)(d), (g), (6), (11), (12); Board Rules 1-02, 1-04(g), 1-08(a), (b), (c), (h), 1-09, 3-02, 3-03(e), 4-01.

The Campaign sent out literature by mail, but did not report any expenditures related to



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postage.

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

12. Failing to demonstrate compliance with intermediary reporting and documentation requirements **VNP**

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 submit an intermediary affirmation statement for two intermediaries, and submitted an unsigned statement for a third intermediary. Additionally, the Campaign misreported two contributions intermediated by the intermediary for whom the unsigned statement was submitted.

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

13. Failing to respond to the Draft Audit Report **\$500**

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

The Campaign failed to respond to the Draft Audit Report.

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

14. Failing to demonstrate that spending was in furtherance of the campaign **\$1,661**

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 made 24 expenditures, totaling \$6,645.68, including expenditures towards service stations and Walmart that, based on the reporting and/or documentation, were not in furtherance of the campaign.

The Board assessed a penalty of \$1,661 for these violations.



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15. Converting campaign funds to a personal use \$19,991

Campaigns are prohibited from converting campaign funds to a personal use. *See* Admin. Code §§ 3-702(21)(b); Board Rules 1-03(a), 2-02. The “use of a political committee or other entity over which a participant or limited participant exercises authority to conceal from the Board expenditures that directly or indirectly assist or benefit the participant’s or limited participant’s nomination or election” is considered to constitute a “fundamental breach of the obligations affirmed and accepted by the participant or limited participant in the certification[.]” *See* Board Rule 2-02.

The Campaign made multiple expenditures totaling \$13,327.59 for personal use. Certain of these expenditures were also an improper use of campaign funds to benefit the Candidate’s business, Brown Young & Co.

The Campaign provided a consulting agreement stating that Brown Young & Co. would perform bookkeeping services, file disclosure statements, and recruit and coordinate GOTV personnel, among other services. However, the contract does not specify the fees associated with the services. In addition, the Campaign provided invoices that do not detail the work performed, at what rates, or how the billed amounts were calculated. The Candidate executed the contract on behalf of both the Campaign and the vendor. Finally, the Campaign submitted a statement listing additional services performed by Brown Young & Co. that were not provided in the contract.

The reported activity, and documentation provided, suggests that the Campaign was not a legitimate entity, and was formed for the benefit of Brown Young & Co. and the Candidate. Seventy-seven percent of the Campaign’s total liabilities were reported as being from Brown Young & Co., and none of the liabilities were paid. Additionally, 81% of the Campaign’s reported expenditures were not in furtherance of the campaign and these expenditures may have benefited Brown Young & Co. and/or the Candidate. Further, the Campaign stated that its GOTV effort was conducted through Eclate Management LLC, for which Brown Young & Co. is the registered agent. Based on available records, Eclate Management LLC and Brown Young & Co. both operate out of the Candidate’s home address.

The Board assessed total penalties of \$19,991 for these violations.

16. Commingling campaign funds with personal or business funds \$4,815

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). Campaigns are prohibited from commingling campaign funds with personal or business funds or funds accepted for another election. *See* Board Rules 2-06(b), (e).

The Campaign provided notes from a Committee meeting indicating that it opened an account in the Candidate’s name that was used to “collect service fees and campaign donations from clients” four months before it opened its TD Bank account, which it disclosed to the CFB.



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The Campaign reported receiving 108 contributions after the opening of the disclosed account, but later stated that it had received those donations before it had opened its disclosed bank account. Therefore, the Campaign deposited contributions into the undisclosed account, thus commingling campaign funds with the Candidate's personal or business funds.

The Board assessed a penalty of \$4,815 for these violations.

17. Submitting false contribution reporting and documentation \$6,530

Campaigns are required to maintain documentation for all contributions. *See* Board Rule 4-01. Campaigns must also report to the CFB every contribution, as well as the full name, residential address, occupation, employer, and business address of the contributor. *See* Admin. Code §3-703(6)(a); Board Rule 3-03(c). A contribution must be in the true name of the contributor. Contributors may not make contributions in the name of someone else, and contributors may not be reimbursed by someone else for their contributions. Campaigns may not knowingly receive or report contributions given in the name of someone other than the true contributor. *See* New York State Election Law §14-120. A “matchable contribution” is a contribution not greater than the applicable contribution limit, made by an individual New York City resident, that has been reported fully to the CFB. *See* Admin. Code §3-702(3); Board Rule 5-01(d).

“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.”

Board Rule 2-02.

The Campaign submitted false contribution reporting and documentation as detailed below.



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Cash Contributions

The Campaign submitted multiple contribution cards, 112 of which shared some or all of the following characteristics: the same notation in place of the date; missing contributor signatures; missing instrument codes; missing, incomplete, or illegible employment information on contributions greater than \$99; and/or shared handwriting markers.

CFB staff succeeded in contracting eleven purported contributors, eight of whom denied making any contribution, and three of whom verified their contribution. Of the eight denials, three indicated that the Candidate had prepared their taxes in prior years; two indicated that they had signed or been asked to sign the Campaign's nominating petition; and three indicated having no connection to the Candidate.

Additionally, the Campaign submitted unsigned contribution cards completed in the same handwriting and with the same notation in place of the date for three contributions made on July 8, 2013, totaling \$190. The Campaign later reported that it had received additional contributions from the same individuals. As documentation of those contributions, the Campaign submitted two signed contribution cards and a signed check, all of which contained different handwriting from the original contribution cards. One month later, the Campaign re-submitted the contribution cards associated with these same contributions, which included signatures and were dated July 8, 2013.

The timing of the Campaign's document submissions indicates that the Campaign misrepresented the date of the listed contributions and may have falsified contribution backup documentation. Based on the Candidate's own statements, the identical notations on these contribution cards indicates that the Campaign possessed the funds associated with those contributions prior to the date the contributions were purportedly made.

Check Splitting

Contributor A Contributions

The Campaign reported receiving a \$20 check contribution from a contributor ("Contributor A") on June 25, 2013. As documentation of this contribution, the Campaign submitted an undated contribution card indicating a \$25 contribution signed by the contributor. The Campaign also reported receiving \$10 check contributions from three other individuals on July 10, 2013. As documentation of these contributions, the Campaign submitted three unsigned, undated contribution cards completed in the same handwriting.

On September 9, 2013, the Campaign submitted a copy of a \$50 check from Contributor A dated July 10, 2013 and re-submitted the contribution card associated with Contributor A's contribution, which now included a date (June 25, 2013). The Campaign also re-submitted the three contribution cards associated with the three other individuals' contributions, now bearing Contributor A's signature and dated July 10, 2013.

The timing of the Campaign's submissions and the alterations to the documentation suggest



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that the Campaign misrepresented the \$50 contribution from Contributor A on July 10, 2013 as separate contributions from the reported individuals.

Hidary Contributions

The Campaign reported five contributions in the same amount on the same day, totaling \$875. As documentation for the contributions, the Campaign submitted a copy of a check from Hidary for NYC dated July 31, 2013 for \$1,250, but did not address the \$375 difference between the misattributed contributions and the check total.

The Hidary campaign, however, stated that the check was a payment for joint petitioning expenditures, and provided a letter from the Candidate stating that the Campaign paid \$2,500 for joint petitioning, of which Hidary's share was \$1,250. Thus, the Campaign misrepresented the funds received from the Hidary campaign for petitioning as contributions from five reported individuals, and claimed those contributions for match.

The Board assessed total penalties of \$6,530 for these violations.

18. Material misrepresentation

\$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.”

Board Rule 2-02.

The Campaign's submission of fraudulent matching claims constitutes material misrepresentation.

The Board assessed total penalties of \$20,000 for these violations.