



Summary of Final Board Determination

Francisco Moya

Candidate, EC 2017, City Council

Program participant: \$100,100 in Public Funds received

Edgar Moya, Treasurer of Moya 2017

The Board determined that the Campaign failed to comply with the Campaign Finance Act and Board rules, and assessed violations and penalties as detailed below.

I. Failing to report transactions in daily pre-election disclosure statements \$250

All aggregate contributions and/or loans from a single source in excess of \$1,000, and all aggregate expenditures to a single vendor in excess of \$20,000, received or made within 14 days of an election, must be disclosed to the Board within 24 hours. *See* Admin. Code §§ 3-703(6), (12), 3-708(8); Board Rules 1-08(b), 1-09, 3-02(e).

The Campaign made three expenditures to Red Horse Strategies totaling \$28,598.63 in the 14 days preceding the September 12, 2017 primary election, which it failed to report. Additionally, the Campaign paid Red Horse Strategies \$22,812.22 on October 28, 2017, 10 days prior to the general election, which it failed to report.

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

2. Failing to document transactions \$508

Campaigns are required to document all financial transactions. *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 paid TruCorps LLC \$14,656.717 for payroll services for its canvassers from June through September 2017. For expenditures totaling \$6,173.28, the Campaign provided partial invoices and payroll documentation that were insufficient to document the expenditures.

The Campaign hired Nashban Mansur LLC to provide various services from June 1 through September 2017. However, the Campaign paid the company \$2,000 in March 2017, outside the term of its contract, and did not provide sufficient documentation of that payment.

The Campaign paid a total of \$2,000 in broker's fees to Exist Realty Genesis in August and September 2017, for which it provided no explanation or documentation.

The Board assessed a penalty of \$508 for these violations.

3. Accepting a contribution from a limited liability company

\$1,962

Campaigns may not accept a campaign contribution 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. In-kind contributions include goods or services donated to a candidate free of charge or at a special discount not available to others. *See* Admin. Code § 3-702(8); Board Rule 1-02.

The Campaign provided an invoice dated June 30, 2017 for \$1,570.31 from TruCorps LLC, a limited liability company registered in New York State. The invoice is marked “Paid;” however, no corresponding payment appears on the Campaign’s bank statements, and the Campaign did not report or document an associated expenditure or in-kind contribution. Therefore, it appears that the Campaign received services at no charge, which constitutes a prohibited in-kind contribution from a limited liability company.

The Board assessed a penalty of \$1,962 for this violation.

\$222

4. Making impermissible post-election expenditures

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).

According to its reporting to the New York State Board of Elections, the Campaign made three expenditures totaling \$889.41 to AT&T in July, August, and September 2018. The Campaign did not demonstrate that these were permissible post-election expenditures.

The Board assessed a penalty of \$222 for this violation.

\$35,000

5. Exceeding the expenditure limit

Candidates who participate in the Campaign Finance Program may not spend in excess of the expenditure limits (\$182,000 for 2017 City Council primary elections). *See* Admin. Code §§ 3-703(1)(i), (11), 3-706, 3-711(2)(a); Board Rules 1-08(c), (d), (j), 7-05(b). An expenditure is presumed to be made for the first election in which the participant is a candidate following the day it is made. *See* Board Rule 1-08(c)(1). Where committees not reported to be involved in an election make expenditures, those expenditures will be counted toward the candidate’s expenditure limit. The candidate bears the burden of demonstrating that such expenditures were not made in connection with such election. *See* Board Rule 1-08(c)(3).

The Campaign made expenditures totaling \$180,196.24 during the 2017 primary election period. The Campaign also made expenditures totaling \$8,019.35 after September 12, 2017, that are attributable to the primary election expenditure limit and received \$1,570.31 in unreported in-kind contributions that are attributable to the primary election expenditure limit, as an in-kind contribution is considered an expenditure by the campaign. Additionally, the Candidate maintained an active authorized committee, Friends of Francisco Moya (the “State Committee”), during the campaign. Based on a review of its filings with the New York State Board of Elections, the State Committee made expenditures totaling \$23,925.06 that are attributable to the Campaign’s primary election expenditure limit.

In total, the Campaign and the State Committee made \$210,457.26 in expenditures that are attributable to the Campaign’s primary election expenditure limit. This exceeds the limit by \$28,457.26 (15.64%).

The Board assessed a penalty of \$35,000 for this violation.

6. Filing a late response to the Draft Audit Report \$2,002

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 Board 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). Candidates who fail to respond to the Draft Audit Report (the “DAR”) may be subject to a penalty of up to 10% of total public funds received. *See* Admin. Code § 3-711(2)(b).

The Campaign’s response to the DAR was due on July 9, 2018. The Campaign received two extensions of time to respond, with a final due date of September 14, 2018. The Campaign did not respond to the DAR by September 14, 2018 and did not respond to a No Response Letter sent on September 24, 2018.

The Campaign submitted its response to the DAR on January 14, 2019, 171 days after the September 14, 2018 deadline.

The Board assessed a penalty of \$2,002 for this violation.