
ETHICS & CAMPAIGN REVIEW BOARD ADVISORY OPINION

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TO: MS. TARIN NIX
FROM: ETHICS & CAMPAIGN REVIEW BOARD
JUSTIN MILLER, CHAIRPERSON (JM)
SUBJECT: RECOMMENDED DISPOSITION OF NOVEMBER 15, 2013 CHECK
DATE: 01/22/2014
CC: YOLANDA Y. VIGIL, CITY CLERK

Question Presented: What should Ms. Tarin Nix do with a November 15, 2013 check from the “Patti for Mayor” campaign?

Answer: Ms. Nix should disburse the funds to the City’s Public Campaign Finance Fund because the November 15, 2013 check was a duplicative payment and should be handled according to the procedures for unspent seed money contributions as provided in Section 9-3.6(E) SFCC 1987.

Summary Background: In the summer of 2013, Ms. Patti Bushee hired Ms. Tarin Nix to work on her privately financed campaign for mayor. On or about June 19, 2013, Ms. Bushee relieved Ms. Nix of her duties. On June 19, 2013, Ms. Bushee paid Ms. Nix with a check of \$1,750.00 for her services. Ms. Nix cashed this check. Sometime after that date, Ms. Bushee formed an organization called “Patti for Mayor” to run a publicly financed campaign for mayor. On November 15, 2013, “Patti for Mayor” paid Ms. Nix with a check of \$1,750.00 for her prior services. Ms. Nix did not cash this check. On November 25, 2013, Ms. Nix filed with the City Clerk’s Office a verified complaint alleging that Ms. Bushee had violated the Public Campaign Financing Code Sections 9-3.6 and 9-3.8 SFCC 1987. On December 16, 2013, the Ethics and Campaign Review Board dismissed the complaint. On that same date, Ms. Nix made an oral request to the Board for an advisory opinion pursuant to Section 6-16.2(C) SFCC 1987 regarding the disposition of the November 15, 2013 check. Ms. Nix also made a subsequent electronic request for this advisory opinion.

Analysis: The Ethics and Campaign Review Board may give advisory opinions on matters regarding the City’s Code of Ethics, the Campaign Code and the Public Campaign Finance Code under its authority in Section 6-16.2 SFCC 1987. As stated above, Ms. Nix was hired and received compensation for campaign services by Ms.

¹ Pursuant to 6-16.2 SFCC 1987, this advisory opinion shall be indexed and maintained on file with the City Clerk’s office and placed on the city’s website.

Bushee. As of June 19, 2013, that business relationship was complete.² Sometime after that date, Ms. Bushee sought to become a publicly financed candidate.

The Public Campaign Finance Code has authorized candidates, such as Ms. Bushee, to create an organization to collect seed money contributions, create a seed money account and make expenditures out of this account under Section 9-3.6 SFCC 1987. The Public Campaign Finance Code has also mandated that candidates file a report on this activity under Section 9-3.8 SFCC 1987.

The Public Campaign Finance Code, however, does not require a candidate to make an expenditure twice to account for payment for prior services simply because a candidate has switched from a private funded candidate to a publicly funded candidate. Therefore, the November 15, 2013 expenditure to Ms. Nix from “Patti for Mayor” should be viewed as a duplicative payment. In other words, the November check should have remained in the seed money contribution account of “Patti for Mayor.” The Public Campaign Finance Code directs: “all seed money contributions that have not been spent or used for such purposes by the time the candidate applies for certification as a participating candidate or by the end of the qualifying period, whichever is sooner, shall then paid over to the municipal clerk in the fund....” Section 9-3.6(E) SFCC 1987 (emphasis added). It is our understanding that the qualifying period ended on November 18, 2013.

In conclusion, the November check for \$1750.00 should be treated as unspent seed money contributions and should be handled according to relevant procedures under Section 9-3.6(E) SFCC 1987. These funds should be returned to the City’s Public Campaign Finance Fund.³

² It is our understanding that the City Clerk’s Office has telephonically notified Ms. Bushee that she will have to file a campaign report with the City Clerk’s Office for the period of time covering when she was a privately financed candidate.

³ Ms. Nix should work with the City Clerk’s Office to determine how to most efficiently turn the check over the City’s Public Campaign Finance Fund. This memorandum is advisory only, intended to provide guidance to her, and the Board does not have jurisdictional authority to require her to follow this recommended action. Since this topic deals with monetary compensation, Ms. Nix should seek her own legal advice regarding compliance with state and local compensation/tax laws.