

**Ms. Martinez moved to reconvene from Executive Session. Ms. Kovnat seconded the motion.**

**A roll call vote to reconvene with Ms. Lujan, Ms. Kovnat, Mr. Thompson and Ms. Martinez was approved unanimously.**

*The Board returned to Open Session at 5:40 p.m.*

Chair Miller asked the record to reflect that the Board met in Executive Session and the only matters discussed in Executive Session were matters related to Case #2013-2 regarding an action on determination of the merits of the Complaint and consideration of Sanctions, if a violation was found.

Chair Miller said he would read the Findings and Conclusions of the Board and the Board would vote on those Findings and Conclusions in Open Session.

Chair Miller said as a preliminary matter prior to that, the Board had decided at the last meeting to proceed based on the record before them. He said the Board felt there were enough facts and information to decide the merits of the Complaint and the parties were asked to present legal argument in writing and make an oral presentation to the Board this evening.

Chair Miller said the Board's decision is based on the record before the Board at the last meeting and the legal arguments made in writing and the oral presentations made today.

1) Action on Determination on the Merits of Complaint

Chair Miller read the Findings and Conclusions of the Board as follows:

*The Findings and Conclusions:*

1. Mr. Maestas accepted the campaign materials from Focus, Inc. and used them for purposes of his campaign.
2. Mr. Maestas accepted the Robo-call for purposes of benefiting his campaign.
3. These activities meet the definition of "expenditure" found in the Public Campaign Finance Code Section, 9-3.3g specifically, the definition of expenditure includes: a contract to promise, or agreement, whether or not legally enforceable, to make an expenditure.

The Board finds two discreet violations:

- 1) In the acceptance of the campaign materials and
- 2) In the acceptance of the benefits of the Robo-call.

2) Action on Sanctions, if there was a violation, as permitted under Section 6-16.7 SFCC 1987

The Board finds that these activities violate two sections of the Code; 9-3.6b which prohibits a candidate from expending more than \$1500 in seed money. Secondly, 9-3.8: which requires a report to be filed listing all expenditures of seed money.

Chair Miller asked the Board to confirm the Findings and Conclusions of the Board.

Ms. Lujan noted that the Board did not include the new evidence and information that was brought forward and had focused only on the initial Complaint.

Chair Miller agreed. He said the focus was on the Complaint, the legal arguments submitted and the oral presentations made today.

**Ms. Kovnat moved that the Board confirms these are the Findings and Conclusions of the Board. Ms. Martinez seconded the motion.**

**A roll call vote taken with Ms. Kovnat, Ms. Lujan, Ms. Martinez, and Mr. Thompson passed unanimously. There were no votes against.**

Chair Miller said having found two violations of the Public Finance Campaign Code, the Board also considered Sanctions.

*The Board determined Sanctions under the Board's authority under Sanctions, 6-16.7B(2).*

The Board imposes a fine of \$500 per violation for a total of \$1000, payable to the City of Santa Fe to be made to the City Clerk within 30 calendar days. The money cannot come from the campaign, because such payment of a fine is not a permissible use of Campaign Funds under 9-3.11 (Use of Payments from the Campaign Fund).

**Ms. Martinez moved to confirm the Sanctions of the Board. Ms. Lujan seconded the motion.**

**A roll call vote taken with Ms. Kovnat, Ms. Lujan, Ms. Martinez, and Mr. Thompson was passed unanimously. There were no votes against.**

Chair Miller said this is the decision of the Board. The Respondent has the right to appeal the decision of the Board to District Court. He asked for further comments from Board members and seeing none, said Agenda Item two is concluded.

#### **4. BOARD MATTERS**

There were no Board Matters.

#### **5. PUBLIC COMMENT**

*Jim Harrington* said he had a comment on the Advisory Opinion issued. He also commended the Board on the hard work that went into both cases.

He said the Advisory Opinion carries implications of what the Board would do on future code amendments and he wanted to express Common Cause's view.

Mr. Harrington said the first check, as he thought Councilor Bushee and her Advisor had told Ms. Nix, could be to dispose of however the person wanted. He said the second check was to be the payment