

Philadelphia Board of Ethics
Campaign Finance Compliance Report
April 17, 2007

A. Executive Summary

Since being installed less than five months ago, the Philadelphia Board of Ethics has worked with vigilance to fulfill its advisory, educational and enforcement mandates under the City's campaign finance law.

The Board is currently engaged in multiple investigations of potential violations of the City's campaign finance laws. Where violations have occurred and are not corrected, the Board will act swiftly to enforce the law, either in court or administratively.

The Board also has acted proactively to help prevent campaign finance violations and ensure compliance by making inquiries and requesting corrective actions, thereby avoiding the need for an investigation. This report describes Board inquiries that have not required investigations. In each case, the Board asked the candidate or campaign to answer questions or explain apparent discrepancies in their campaign finance reports to ensure they are in compliance with the law and prevent future violations.

For example, the law permits candidates to accept "excess pre-candidacy contributions," but they are prohibited from using the excess portion of such contributions to influence the outcome of their election. Because the excess portion of a contribution cannot be distinguished from other funds once it has been deposited into a candidate's account, the Board has directed campaigns to segregate such funds by placing them in a "segregated pre-candidacy excess contribution account ("SPEC Account").

This report lists and describes committees that have: (1) either taken corrective action on their own initiative or took corrective action at the request of the Board to avoid potential violations of the law; (2) provided explanations of potential violations suggested by data in their Cycle 7 annual campaign finance reports that demonstrated that they were actually in compliance; or (3) that have been asked by the Board to provide data that was omitted from the committee's 2006 Cycle 7 annual report.

The compliance reports below are listed in the following categories:

- Excess pre-candidacy contributions that have been segregated or returned (Section C);
- Potential excess pre-candidacy contributions (Section D);
- Failure to initially file electronic reports (Section E); and
- Reports filed with omitted data (Section F).

B. Analytical Approach

The Ethics Board, the Records Department and representatives from the vendor who created the Campaign finance Database began to analyze the data contained in the electronic Cycle 7 campaign finance reports for the four Democratic candidates who filed their reports with the Records Department on January 31st as soon as the reports were loaded into the database. The first exception reports were generated on February 2nd. The first reports aggregated all contributions from the same donors to a candidate, and then listed all contributions that were over \$5,000 or \$20,000 for 2006.

Nearly all of the remaining 169 Cycle 7 reports were eventually filed by the extended electronic filing deadline of February 15th. One Democratic candidate for Mayor filed his Cycle 7 annual report on February 16th. Once all the reports were filed in an electronic format, more exception reports were run, with filters set at \$2,500, \$5,000, \$10,000 and \$20,000. The reports aggregated all contributions from the same donors to a candidate, and then listed all contributions that were over the dollar amount set for each report.

A letter was sent to each candidate with a potential excess pre-candidacy contribution, explaining the spending limitations on excess pre-candidacy contributions, and that the data in their Cycle 7 report suggested that they had received an excess pre-candidacy contribution. Candidates were asked to confirm the data in the reports.

If the candidate confirmed an excess pre-candidacy contribution, a follow-up letter was sent recommending that they segregate the excess portion from their single account, to ensure that they did not violate the spending restriction under Section 20-1002(4) of the campaign finance law.

Each of the candidates listed in section “C” below confirmed the receipt of an excess pre-candidacy contribution and complied with the Board’s request to

segregate the money (with the exception of Councilman Kenney, where the Board is waiting for documentation).

Each of the candidates listed in section “D” provided additional information that, once corroborated with other sources of information, demonstrated that they did not have a potential excess pre-candidacy contribution as initially suggested by the data in their Cycle 7 report.

Later, candidate committee reports were cross-referenced with filings by the PACs, to ensure that all PACs that made contributions to candidates for City elective offices in 2006 filed a Cycle 7 report in an electronic format with the Ethics Board, via the Records Department. If a PAC was listed as a contributor in a candidate committee’s report, but that PAC did not file a required electronic report, a letter was sent to the treasurer of the PAC explaining the requirements and demanding that a report be filed by a date certain.

C. Candidate Committees with Excess Pre-Candidacy Contributions that Have Been Segregated or Returned

1. Friends for Dwight Evans for Mayor Committee

On his own initiative, after the Board issued Advisory Opinion 2006-003, which, among other advice, recommended that candidates with excess pre-candidacy contributions segregate the excess portion of the contribution by placing it into a “segregated pre-candidacy excess contribution account” (“SPEC Account”), Representative Dwight Evan’s established a SPEC Account sometime prior to January 31, 2007.

Representative Evans placed \$55,031.25 in excess pre-candidacy contributions by seven individuals in 2005 into the SPEC Account.

2. John D. Green Committee

The 2006 Cycle 7 campaign finance report filed on behalf of the John D. Green committee revealed a \$23,500 contribution from a Political Action Committee (PAC) on June 29, 2006. A letter was sent to Sheriff Green on February 22, 2007, explaining the restrictions on excess pre-candidacy contributions and asking him to check the committee’s records to confirm the information about the reported excess pre-candidacy contribution.

Follow-up letters were sent on March 8, 2007 and April 4, 2007. The April 4th letter enclosed a copy of Advisory Opinion 2006-003 and recommended that the committee segregate \$13,500 of the excess contribution as soon as possible.

On April 9, 2007, the committee's campaign manager sent a letter to the Board, stating that the committee had decided to return the \$13,500 excess portion of the contribution to the PAC and promised to provide documentation once that had occurred. On April 17, 2007, the committee provided documentation to the Board confirming that \$13,500 was returned to the PAC by check dated April 10, 2007.

3. Friends of Michael Untermeyer Committee

The 2006 Cycle 7 report for the friends of Michael Untermeyer committee listed a \$10,000 contribution from an individual on August 15, 2006. The report also listed a \$25,000 contribution from a husband and wife on August 25, 2006, which was the date on which Mr. Untermeyer declared his candidacy for Sheriff.

On February 22, 2007, a letter was sent to Mr. Untermeyer, explaining the restrictions on excess pre-candidacy contributions and asking him to check the committee's records to confirm the information about the reported excess contributions. Mr. Untermeyer responded with a letter dated March 15, 2007, in which he stated that \$5,000 of the August 15, 2006 contribution and \$15,000 of the August 25, 2006 contribution were placed into an escrow account on March 4, 2006.

On March 23, 2007, another letter was sent to Mr. Untermeyer, explaining that \$7,500 of the August 15, 2006 contribution needed to be segregated and that \$20,000 of the August 25, 2006 contribution must be returned to the donors, because it was an excess contribution to a declared candidate.

On March 29, 2007, the committee returned the \$20,000 excess contribution to the husband and wife who donated it. On March 28, 2007, the committee placed \$7,500 into an escrow account. The committee has submitted documentation to the Board that confirms both the returned contribution and the escrow account.

4. Kenney for Council Committee

The 2006 Cycle 7 report for the Kenney for Council committee reported both a \$15,000 contribution and a \$15,000 loan from a candidate political committee,

both occurring on September 14, 2006. However, that other candidate political committee's Cycle 7 report only listed a \$15,000 loan to the Kenney for Council committee.

A letter was sent to Councilman Kenney on February 22, 2007, requesting him to check his committee's records to confirm what appeared to be a misreported \$15,000 contribution and to confirm the \$15,000 loan. On February 26, 2007, a representative from Councilman Kenney's committee called to confirm the fact that there was only a \$15,000 loan from that committee, and no contribution. The representative was then advised that the loan qualifies as a "contribution" under the law, and that \$5,000 of the loan would constitute an excess pre-candidacy contribution. A follow-up letter was sent to Councilman Kenney on March 8, 2007 confirming the discussion, and enclosing a copy of Advisory Opinion 2006-003. Councilman Kenney's representative indicated that they would most likely return the \$5,000 excess portion, since it was a loan.

5. Friends of Donna Reed Miller Committee

The 2006 Cycle 7 report for the Friends of Donna Reed Miller committee listed \$7,000 in excess pre-candidacy contributions from four individuals.

A letter was sent to Councilwoman Reed Miller on March 8, 2007, requesting her to check her committee's records to confirm the reported information. Following telephone conversations with both Councilwoman Reed Miller and her treasurer, the committee opened a SPEC Account on April 11, 2007 and deposited \$7,000 into that account.

D. Candidate Committee Reports Listing Potential Excess Pre-Candidacy Contributions

1. Friends of Bob Brady Committee

The Cycle 7 report for Congressman Bob Brady listed two separate \$20,000 contributions from the same PAC in 2006 – one in November and a second in December. A letter was sent to Congressman Brady's counsel on February 23, 2007, asking him to direct campaign staff to check the committee's records to confirm the information.

Congressman Brady's counsel responded by letter dated March 8, 2007, advising the Board that the \$20,000 contribution that the committee reported it received in

November 2006 was in error. Although the committee did receive two separate \$20,000 contributions from the same PAC, they were made in December 2006 (as reported in the 2006 Cycle 7 report) and in January 2007. Copies of the cancelled checks were supplied. The PAC's 2006 Cycle 7 report corroborated these representations, as did an attorney representing the PAC in a subsequent telephone conversation.

2. Nutter for Mayor Committee

The Cycle 7 report for the Michael Nutter for Mayor committee listed multiple contributions from two individuals with the same name. Five contributions from one name totaled \$5,350, while three contributions from another name totaled \$6,000. A letter was sent to Mr. Nutter on February 14, 2007, asking him to check his committee's records to confirm the information.

Mr. Nutter's counsel responded by letter dated February 20, 2007. The letter explained that there were actually four contributors, two who shared one name and two who shared the other name. Middle initials, telephone numbers, employer names and addresses were also provided. Calls to each of the four individuals confirmed their separate identities as well as their actual contributions to Mr. Nutter, which were within the contribution limits.

E. Committees that did not Initially File Electronic Reports

1. Plumbers Local 690 PAC

The 2006 Cycle 7 report for a candidate for City elective office listed a \$20,000 contribution from the Plumbers Local 690 PAC. The Pennsylvania Department of State Campaign Finance Database indicated that the Plumbers Local 690 PAC did file a required 2006 Cycle 7 report with the Department of State, but it did not file the same report in an electronic format with the Ethics Board, via the Records Department.

A letter was sent to the treasurer of the Plumbers Local 690 PAC on March 21, 2007 that explained the electronic filing requirement and enclosed copies of the City's campaign finance law and Regulation No. 1, which, the letter explained, took effect on January 17, 2007. The letter requested that the PAC submit its Cycle 7 report in an electronic format no later than by April 4, 2007, which it did.

2. Carpenters PAC of Philadelphia & Vicinity

The 2006 Cycle 7 report for two candidates for City elective office listed contributions from the Carpenters PAC of Philadelphia & Vicinity. The Pennsylvania Department of State Campaign Finance Database indicated that the Carpenters PAC of Philadelphia & Vicinity did file a required 2006 Cycle 7 report with the Department of State, but it did not file the same report in an electronic format with the Ethics Board, via the Records Department.

A letter was sent to the treasurer of the Carpenters PAC of Philadelphia & Vicinity on March 21, 2007 that explained the electronic filing requirement and enclosed copies of the City's campaign finance law and Regulation No. 1, which, the letter explained, took effect on January 17, 2007. The letter requested that the PAC submit its Cycle 7 report in an electronic format no later than by April 4, 2007, which it did.

F. Committees that Filed Reports with Omitted Data

1. Overview

More recently, exception reports were run listing omitted data, such as the name or address of a contributor, the date of a transaction, or the name or address of a contributor's employer, for all 173 Cycle 7 annual campaign finance reports. After reviewing the data, it was decided to set a minimum threshold of 20 missing data entries. There are six committees with more than 20 omitted data entries.

The lowest number of missing entries was 23, but that represented 16% of that committee's total required data entries. The highest number of missing entries was 153, representing 8% of that committee's total required data entries. The highest percentage of missing data was 19%, representing 33 missing data entries out of a total of 173.

Letters were hand-delivered to the six committees with omitted data on April 13th, requesting that they file amended Cycle 7 reports by April 20th, thus providing them with a limited time to take corrective action. Each letter enclosed a copy of the exception report for that committee that identifies and lists the data that was omitted from their report. Because amended reports are required, they must also file amended reports with the City Commissioners. Copies of the letters and exception reports were hand-delivered to City Commissioners' staff.