



CITY OF NEW YORK CONFLICTS OF INTEREST BOARD

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Elected Officials
Fundraising
Not-for-Profit Organizations

Charter Section: 2604(b)(2)

Advisory Opinion No. 98-14

The Board has received a request from an elected official as to whether her proposed fundraising activity on behalf of a not-for-profit organization would be consistent with the conflicts of interest provisions contained in Chapter 68 of the Charter. For the reasons discussed below, the Board has determined that the public servant may not engage in the proposed fundraising activity. The Board has determined, however, that, subject to the conditions set forth in this opinion, the public servant, and other elected officials and high-level public servants, may send correspondence expressing support for the work of not-for-profit organizations and that these organizations may include the public servant's letter or views in solicitations or newsletters.

Discussion

The elected official proposes to write letters, on her official letterhead, to local merchants and individuals asking them to contribute money or goods to a not-for-profit organization. The letter would not be addressed to specific individuals or entities, but to generic groups such as "local merchant," "neighbor" or "concerned individual." In

addition, the letter would be sent to broad groups of merchants and individuals. Neither the elected official nor her staff would collect the contributions, nor would they be informed of the identity of contributors.

In Advisory Opinion No. 93-15, the Board determined that an elected official may not engage in fundraising activities which could be perceived as coercive or providing an inappropriate opportunity for access to the public official. Such activities would violate Charter Section 2604(b)(2).¹ “[T]he principal concern is whether or not the public servant’s actions would create an appearance that he or she is using the power of public office to pressure others into contributing, taking official action on the basis of whether or not a contribution has been made, or allowing contributors to have access to City government in a manner not enjoyed by the general public.”

Advisory Opinion No. 93-15 at 8.

Conclusion

In considering the facts of this case, the Board has determined that the elected official’s proposed fundraising activities would create the appearance that the elected official is pressuring others to provide financial support to a not-for-profit organization. Although the proposed letter would be addressed and sent to broad classes of individuals, such as local merchants, the recipients of these solicitations may nevertheless view them as targeted, may perceive them as coercive, and as pressure to provide financial support.

¹ Charter Section 2604(b)(2) prohibits a public servant from engaging in any business, transaction or private employment, or having any financial or other private interest, in conflict with his or her official duties.

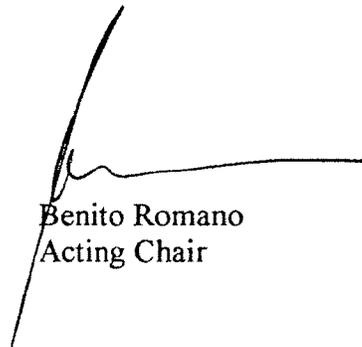
Further, the recipient of these solicitations would not know whether and to what extent the elected official and her staff would be informed of the identity of any contributors.

Accordingly, the Board concludes that the elected official, as well as other elected officials and high-level public servants, may not write to local merchants or individuals asking them to contribute to a not-for-profit organization.

The Board, however, recognizes that there are many worthy not-for-profit organizations, some of which are vital to the City. Elected officials or other high-level public servants may seek to recognize these organizations or to assist them in meeting their mission. Therefore, the Board concludes that the elected official and other elected officials or high-level public servants may send letters to not-for-profit organizations attesting to the good works of the particular organization, or offering other positive (or negative) comment about the not-for-profit organization and its mission.² The not-for-profit organization may thereafter reprint or publish the public officials' letters or comments in the not-for-profit organization's fundraising solicitations, newsletters, or other publications. Elected officials or high-level public servants may also provide oral statements, for attribution, to the not-for-profit organization for use in the organization's fundraising efforts.

This approach permits elected officials or high-level public servants to recognize the good works performed by not-for-profit organizations, without directly engaging in fundraising on behalf of the organization. Further, the elected official or high-level public servant, and their immediate staffs, must not be informed of who does and does

not contribute and must not participate in the not-for-profit organization's collection of contributions.

A handwritten signature in black ink, appearing to read "Benito Romano", is written over a horizontal line. The signature is stylized and extends above and below the line.

Benito Romano
Acting Chair

Bruce A. Green
Jane W. Parver

Dated: December 31, 1998

² The Board's decision in this case does not extend to appeals or requests to contribute to political parties or candidates or to support a particular party or candidate. Charter Section 2604(b)(12) contains provisions governing political fundraising. See also Advisory Opinion No. 93-6.