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Press Release

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**APPELLATE COURT REINSTATES CAMPAIGN FINANCE BOARD'S
DETERMINATION IN ITS ENTIRETY AGAINST THE ESPADA 2001 CAMPAIGN,
CANDIDATE PEDRO ESPADA, JR., AND TREASURER KENNETH BRENNAN,**

***CASE INVOLVED SUBSTANTIAL VIOLATIONS OF THE CAMPAIGN FINANCE ACT AND RULES
TOTALING OVER \$61,000 IN PENALTIES WITH RESPECT TO MR. ESPADA'S
2001 CAMPAIGN FOR BRONX BOROUGH PRESIDENT***

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New York, Dec. 31, 2008 – A midlevel appeals court – the Appellate Division, First Department – issued a decision yesterday reinstating in its entirety the determination of the New York City Campaign Finance Board imposing \$61,750 in penalties for the substantial violations of the City's Campaign Finance Act and Rules during Pedro Espada, Jr.'s campaign for Bronx Borough President in 2001. In particular, the Board assessed penalties for 22 violations, resulting in one of the largest penalty amounts ever assessed by the Board.

Under the New York City Campaign Finance Act, a candidate who runs for public office and participates in the Campaign Finance Program must agree to abide by the Program's requirements under the Act (N.Y.C. Admin. Code, § 3-701, *et seq.*). He or she must also abide by the rules enacted by the Campaign Finance Board (Rules of the City of New York ("RCNY"), Title 52, § 1-01 *et seq.*). In 2001, the petitioner, Pedro Espada, Jr., opted to participate in the Program, designating "Espada 2001" as his principal committee and Kenneth Brennan as the committee's treasurer.

Joseph P. Parkes, S.J., Chairman of the New York City Campaign Finance Board, said: "The Board is pleased the Appellate Division court upheld that candidates, committees, and treasurers are jointly liable for penalties attached to violations of the Campaign Finance Act."

In the original lower court decision in May 2007, Manhattan Supreme Court Justice Edward Lehner had upheld many of the findings of violations and penalties, but had also found that a campaign principal, the treasurer, Kenneth Brennan, could not be held personally responsible for violations, despite contrary language in the Act. The lower Court had vacated certain violations, making the final penalties owed about \$39,700. Following the Campaign Finance Board's appeal, the Espada petitioners appealed.

In a unanimous opinion (5-0) written by Justice David B. Saxe, the Appellate Division ruled in the Campaign Finance Board's favor and reinstated the Board's determination in its entirety amounting to penalties of \$61 thousand-plus dollars. Of critical importance, the Court recognized that the Board properly determined that treasurer Brennan and candidate Espada were jointly and severally liable for the campaign finance violations and penalties, based upon the express language of the statute and the deference due the Board's construction thereof.

Significantly, the Court added: “Furthermore, as a matter of policy, this interpretation, holding the candidate and the treasurer personally liable for violations by the committee, is not inappropriate. Indeed, as the Board points out, a contrary construction would nullify the intent of the program, since penalty proceedings generally occur only after the election, so by the time penalties are assessed, a campaign committee will often have been terminated and emptied of funds, rendering such penalties pointless unless the candidate and treasurer remain liable.”

Senior Counsel Elizabeth S. Natrella of the Law Department’s Appeals Division handled the appeal, with significant assistance from Leonard Koerner, Chief Assistant Corporation Counsel and Chief of the Appeals Division, and Sue Ellen Dodell, General Counsel of the Campaign Finance Board and Hillary Weisman, the Board’s Deputy General Counsel, as well as Law Department paralegal Kim Paulk.

Ms. Natrella, who argued the appeal, said: “This decision should reinforce to participants in the Campaign Finance Board program that they must live up to their obligations under the Act and Rules in order to preserve the program’s integrity and protect New York City’s citizens.”

“The case facts here were egregious, involving major violations and fraudulent representations with respect to contributions, loans and other matters,” noted Chief Assistant Corporation Counsel Koerner. “This decision has clarified that such conduct will not be tolerated.”

Father Parkes of the Campaign Finance Board added, “In ruling that Pedro Espada Jr. is personally liable for penalties from his 2001 campaign for Bronx Borough President, along with his treasurer and campaign committee, the Court affirmed that this long-standing Board practice is fully consistent with the law. Candidates always have the option to go before a court to challenge a Board determination, and it is gratifying when the work done by our staff and the judgment made by the Board are validated.”

(Notes to Reporters and Editors:

- The Campaign Finance Board’s original assessment of penalties in the Espada matter came to \$61,750. However, it has been referred to in some court documents as \$61,500. Please note that there was a mathematical glitch that accidentally caused the number to be reported as \$61,500. The actual number is, in fact, \$61,750.
- The “S.J.” designation in Father Parkes’ name stands for the “Society of Jesus,” which is a religious order of priests (whose members are called Jesuits). Therefore, in addition to his work for the Campaign Finance Board, Father Parkes has also served in positions with the New York Province of the Society of Jesus. For more information, you can view his bio at: <http://www.nyccfb.info/press/info/chairman.htm>.)

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The Campaign Finance Board is a nonpartisan, independent city agency that serves the public interest by enhancing the role of New York City residents in the electoral process. Through its administration of the Campaign Finance Program, created in 1988, the CFB educates voters about the candidates and enables more citizens to compete for city office. The Program amplifies the impact of New Yorkers’ small contributions by matching them with public funds, reducing the possibility and the perception of corruption associated with large contributions and unlimited campaign spending. Its web site is nyccfb.info.

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