

THE CITY OF NEW YORK
CONFLICTS OF INTEREST BOARD

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In the Matter of :

CHARLES HYNES

Respondent.

DISPOSITION

COIB Case No. 2013-771
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WHEREAS, the New York City Conflicts of Interest Board (the "Board") commenced an enforcement action pursuant to Section 2603(h)(1) of the City of New York's conflicts of interest law, Chapter 68 of the New York City Charter ("Chapter 68"), against Charles Hynes ("Respondent"); and

WHEREAS, the Board and Respondent wish to resolve this matter on the following terms,

IT IS HEREBY AGREED, by and among the parties, as follows:

1. In full satisfaction of the above-captioned matter, Respondent admits to the following:

- a. From January 1, 1990, to January 1, 2014, I served as the District Attorney of Kings County. As such, I was, at all relevant times, a "public servant" within the meaning of and subject to Chapter 68.
- b. By letter dated August 5, 1997, the Board provided me and the other District Attorneys of New York City with written advice that it would violate City Charter § 2604(b)(2), pursuant to Board Rules § 1-13(b), for the District Attorneys to use City resources or City personnel during our City work hours to perform campaign work.
- c. From in or about May 2012 until November 5, 2013, I used my Kings County District Attorney ("KCDA") computer and my KCDA email account routinely and extensively to perform work for my 2013 re-election campaign (the "Campaign"), including communicating by email over 5,000 times about the Campaign with paid Campaign managers, consultants and strategists; Campaign volunteers and advisers; Campaign donors and fundraisers; political leaders; and certain KCDA personnel.
- d. From May 2012 until November 5, 2013, I used my KCDA email account and my KCDA computer to routinely and extensively exchange emails with my

Campaign Manager and Deputy Campaign Manager on Campaign matters, including the selection and hiring of paid Campaign consultants and staff; the timing of the Democratic primary; roll-out of my Campaign announcement; acquisition and announcement of Campaign endorsements; fundraising and whether particular people had donated to the Campaign; whether to attend particular Campaign events; planning of Campaign appearances; Get-Out-The-Vote strategies; and day-to-day Campaign strategy.

- e. From May 2012 until November 5, 2013, I used my KCDA email account and my KCDA computer to routinely and extensively exchange emails with paid Campaign consultants, and their respective staffs, as well as pollsters. These communications related to gathering signatures for the Campaign's primary ballot petition; Campaign external communications and media relations; Campaign fundraising; Campaign appearances; community, press, and political endorsements; polling; whether to participate in particular debates; debate preparation; and day-to-day Campaign strategy and planning.
- f. From May 2012 until November 5, 2013, I used my KCDA email account and my KCDA computer to routinely and extensively exchange emails with a KCDA Consultant about Campaign matters, including attempts to place Campaign-related news stories and obtain newspaper editorial board endorsements; discussions with reporters on behalf of the Campaign; scheduling of debates; Campaign fundraising, targeting of potential donors, and whether particular people had donated to the Campaign; Campaign advertising and messaging; the benefits to the Campaign of the Brooklyn D.A. reality television show; Campaign opposition research; strategies to reach out to particular communities; analysis, planning, and fundraising with respect to my running in the general election; and general Campaign strategy and Campaign news.
- g. From May 2012 until November 5, 2013, I used my KCDA email account and my KCDA computer to routinely and extensively exchange emails with a friend, who was a sitting judge, about Campaign matters, including selection of a Campaign manager; his efforts to help me obtain newspaper endorsements and positive news coverage; the timing of political endorsements; Campaign advertising and messaging; outreach to particular ethnic communities; Campaign polling; Campaign crisis management; booking of a debate and obtaining questions to be asked at that debate; debate preparation; and general Campaign strategy.
- h. From in or about May 2012 until November 5, 2013, I routinely and extensively used my KCDA email account and my KCDA computer to communicate with certain of my KCDA subordinates, often during their KCDA work hours, to request that they perform tasks and provide advice related to Campaign media relations; Campaign management and logistics; Campaign fundraising; preparation for Campaign appearances, debates, and town hall meetings; Campaign messaging, advertising, research, and strategy; Campaign polls, demographics, and canvass reports; building community coalitions for the

Campaign; and obtaining political, press, and community endorsements for my Campaign; as well as to exchange Campaign-related information.

- i. I routinely used my KCDA computer and my KCDA email account, often during the KCDA workday, to communicate with a KCDA Deputy District Attorney regarding his participation in meetings with paid Campaign staff; Campaign appearances; Campaign polling and canvassing; press and political endorsements; Campaign financial disclosure requirements; Campaign fundraising; the status of absentee ballots; my opponent's payments to Clarence Norman; campaign volunteers to be sent by a City Council Member; and strategy for my general election run.
- j. I routinely used my KCDA computer and my KCDA email account, often during the KCDA workday, to communicate with the KCDA Director of Public Information, including regarding Abe George and Kenneth Thompson's declaration of their candidacies; the address of the Campaign website; preparation of my official announcement of my candidacy; Campaign press releases; the Campaign's response to criticism regarding the CBS reality show, *Brooklyn DA*; preparation for Campaign appearances and debates, and whether to agree to debate; Campaign-related news reports regarding Thompson and George's failure to vote in prior City elections; Campaign poll and canvass results, and methodology; setting up a Campaign newspaper interview; my ideas for a Campaign television ad; his role in the Campaign; and general election fundraising and strategy.
- k. I routinely used my KCDA computer and my KCDA email account, often during the KCDA workday, to communicate with a KCDA Community Liaison about the Campaign, including regarding Jewish Community Campaign fundraising; get-out-the-vote efforts; arrangement of Campaign appearances; Campaign-related news; interviews with the *Jewish Press*; and efforts to obtain Campaign endorsements from religious leaders.
- l. I routinely used my KCDA computer and my KCDA email account, often during the KCDA workday, to communicate with two KCDA Principal Administrative Associates regarding Campaign scheduling, including requesting that they set up and coordinate my attendance at political club pre-endorsement interviews, Campaign-related community forums, Campaign-related television and radio appearances, meetings with reporters regarding my candidacy, Campaign stops, and Campaign fundraisers.
- m. I routinely used my KCDA computer and my KCDA email account during the KCDA workday to request that these two KCDA Principal Administrative Associates type, edit, print, and pack Campaign-related documents for me; remind me of Campaign-related calls I needed to make; and take telephone messages regarding Campaign appearances and fundraising. I had them print Campaign documents on at least 46 occasions.

- n. I routinely used my KCDA computer and my KCDA email account, often during the KCDA workday, to communicate with a KCDA Chief Assistant District Attorney about the Campaign, including regarding preparation of the Campaign's responses to press reports regarding campaign donations that had allegedly impacted a KCDA prosecution, my hiring of the daughter of a campaign contributor, and my relationship with a then-resigning New York State Assembly Member Vito Lopez; coordination of a Campaign-related meeting with my Deputy Campaign Manager; preparation for Campaign appearances, town halls, and debates; debate critiques; Campaign fundraising; polling and canvass results; and the logistics of a Campaign appearance.
- o. I routinely used my KCDA computer and my KCDA email account, during the KCDA workday, to communicate with a KCDA Confidential Assistant District Attorney about the Campaign, including regarding my template for the Campaign's strategy of emailing "regular positive updates" to supporters; fundraising events I wanted her to arrange with a supporter; fundraising and strategy for the general election; the Campaign's website address; the Campaign's potential support in the South-Asian community; Thompson's connection to Clarence Norman; and general Campaign news.
- p. I routinely used my KCDA computer and my KCDA email account, often during the KCDA workday, to communicate with a First Assistant District Attorney about the Campaign, including regarding a Campaign fundraising appeal that a former Chief Justice of the New York Court of Appeals had sent out on my behalf; informing her of Campaign contributions; requesting her assistance with debate preparation and post-debate critique; regarding whether she received a Campaign mailer and her critique of it; and regarding general Campaign news.
- q. On several occasions, I used my KCDA computer and my KCDA email account, during the KCDA workday, to communicate with KCDA Chief of the Trials Division regarding the Campaign, including requesting his assistance to prepare for a NY1 debate.
- r. On several occasions, I used my KCDA computer and my KCDA email account, during the KCDA workday, to communicate with a KCDA Executive Assistant District Attorney regarding my efforts to obtain endorsements for my candidacy from members of the Brooklyn LGBTQ community.
- s. On several occasions, I used my KCDA computer and my KCDA email account to communicate with KCDA's Counsel to the District Attorney regarding my efforts to obtain an endorsement for my candidacy from *New York Carib News*.
- t. I acknowledge that, by performing work for the Campaign using my KCDA email account and my KCDA computer, I used City resources for a non-City purpose in violation of City Charter § 2604(b)(2), pursuant to Board Rules § 1-13(b), which state, respectively:

No public servant shall engage in any business, transaction or private employment, or have any financial or other private interest, direct or indirect, which is in conflict with the proper discharge of his or her official duties.

Except as provided in subdivision (c) of this section, it shall be a violation of City Charter § 2604(b)(2) for any public servant to use City letterhead, personnel, equipment, resources, or supplies for any non-City purpose.

- u. I acknowledge that I sent emails to my KCDA subordinates at their KCDA email accounts, often during their KCDA work hours, to discuss Campaign-related issues and to request that my subordinates perform Campaign-related tasks. I represent that it was not my intent to have this work done during my subordinates' KCDA work hours, but I acknowledge that it was the foreseeable effect of my requests and, upon review of certain emails with my subordinates, I see that, sometimes, Campaign-related tasks did get done during working hours. I thereby used City personnel for a non-City purpose in violation of City Charter § 2604(b)(2), pursuant to Board Rules § 1-13(b), cited above, and caused my KCDA subordinates to themselves misuse City time and City resources in violation of City Charter § 2604(b)(2), cited above, pursuant to Board Rules §§ 1-13(a) and 1-13(b). In so doing, I further violated City Charter § 2604(b)(2), cited above, pursuant to Board Rules § 1-13(d)(1), which states:

It shall be a violation of City Charter § 2604(b)(2) for any public servant to intentionally or knowingly solicit, request, command, importune, aid, induce or cause another public servant to engage in conduct that violates any provision of City Charter § 2604.

2. The Board took into account the extent of Respondent's violations of Chapter 68 and the accountability required by Respondent's high-level position as Kings County District Attorney in determining the appropriate penalty of a fine of Forty Thousand Dollars (\$40,000.00).

3. Respondent agrees to the following:

- a. I agree to pay a fine of Forty Thousand Dollars (\$40,000.00) to the Board by money order or by cashier, bank, or certified check, made payable to the "New York City Conflicts of Interest Board," at the time of my signing this Disposition.
- b. I agree that this Disposition is a public and final resolution of the Board's charges against me.
- c. I knowingly waive on my behalf and on behalf of my successors and assigns any rights to commence any judicial or administrative proceeding or appeal before any court of competent jurisdiction, administrative tribunal, political subdivision, or office of the City or the State of New York or the United States, and to contest

the lawfulness, authority, jurisdiction, or power of the Board in imposing the penalty which is embodied in this Disposition, and I waive any right to make any legal or equitable claims or to initiate legal proceedings of any kind against the Board, or any members or employees thereof relating to, or arising out of this Disposition or the matters recited therein.

- d. I confirm that I have entered into this Disposition freely, knowingly, and intentionally, without coercion or duress and having been represented by attorneys of my choice; that I accept all terms and conditions contained herein without reliance on any other promises or offers previously made or tendered by any past or present representative of the Board; and that I fully understand all the terms of this Disposition.
- e. I agree that any material misstatement of the facts of this matter, including of the Disposition, by me or by my attorney or agent shall, at the discretion of the Board, be deemed a waiver of confidentiality of this matter.

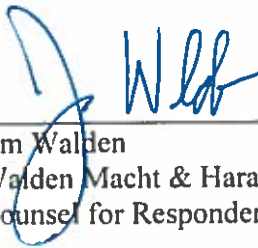
4. The Board accepts this Disposition and the terms contained herein as a final disposition of the above-captioned matter only, and affirmatively state that other than as recited herein, no further action will be taken by the Board against Respondent based upon the facts and circumstances set forth herein, except that the Board shall be entitled to take any and all actions necessary to enforce the terms of this Disposition.

5. This Disposition shall not be effective until all parties have affixed their signatures below.

Dated: MARCH 20, 2018


Charles Hynes
Respondent

Dated: MARCH 20, 2018


Jim Walden
Walden Macht & Haran LLP
Counsel for Respondent

Dated: 3/23, 2018


Richard Briffault
Chair
NYC Conflicts of Interest Board