

May 7, 2020

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Hannah Egerton
Director of Candidate Services
New York City Campaign Finance Board
100 Church Street, 12th Floor
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Dear Ms. Egerton:

This firm represents Elizabeth Crowley and her campaign for the public office of Queens Borough President.

Ms. Crowley is in receipt of various emails from you with regard to the cancellation of the special election for the public office of Queens Borough President and the forthcoming Democratic Party primary election for the same office.¹ As you are well aware, the special election was originally scheduled for March 24, 2020, and then postponed to June 23, 2020. Ultimately, the special election on June 23rd was cancelled. The Democratic Party primary election has been and continues to be scheduled for June 23, 2020.

As you are further aware, in a special election every registered voter is entitled to vote, whereas in a Democratic Party primary election, only registered voters who are enrolled Democrats are permitted to vote.

As such, the Crowley campaign made considerable expenditures for the March 24, 2020 special election, including payments relating to petitioning to gain ballot access, canvass operations, salaries and consultant fees, and literature and posters with said date on such communications. Moreover, this campaigning was directed at the broader electorate that votes in a special election, not confined to enrolled Democrats. Similar efforts and expenditures were made for the special election re-scheduled for

¹ In your most recent email, dated May 4, 2020, you stated, *inter alia*,

“Because the special election was canceled, any campaign spending made for the special election will be considered for the primary election will be considered for the primary election. If the campaign wishes to rebut the presumption with regard to a particular expenditure, despite the elections being on the same date, they can as part of the post –election audit process.”

It continues:

“If the campaign sees the need to address certain expenditures out of concern that it will go over the primary election spending limit and wishes to pursue an advisory opinion request, please let me know.”

June 23rd, again directed at the broader electorate.

Such expenditures for the March 24th and June 23rd special elections, and all expenditures relating to the broader general electorate, not confined to Democratic Party enrollees, should not be considered as expenditures that are included in the Democratic Party primary election expenditure cap. The campaign has identified various expenditures, below, that should be so excluded.

The campaign spent a total of:

- \$197,909 was paid to professional field operations firms, including \$31,909 going to the BrownMiller Group, \$50,000 to Bystrov Bryant LLC, and \$116,000 to Meridian Strategies, respectively. The campaign estimates that 19.1% of those targeted in its paid canvass operations were non-Democrats—in the sum of **\$37,800.62**.
- \$368,273.53 was paid for mailers and literature during its voter targeting efforts. The exact cost of mailers sent to non-Democratic householders is difficult to estimate due to the economies of scale nature of the expenditure. The campaign vendor estimates that **\$126,099.96** of the cost of such mailers were directed to non-Democrats—including specialized creative with messaging specifically catered to such an audience.
- **\$1,846.63** was spent for posters with the March 24 special election date on them.
- \$3,200.62 was paid for GOTV texting services. **\$739.34** of this amount (23.4%) was allocated for messages to non-Democrats.
- **\$31,408.84** was paid for petitioning efforts for ballot access for the special election, with \$16,218.75 going to Bystrov Bryant LLC and \$15,000 to Meridian Strategies, respectively, and the rest for petition printing costs.
- \$279,736 was paid for cable and digital ads. Using the low-end estimate (from field targeting) of non-Democrats, **\$53,429.58** of such ads were consumed by these voters.
- \$19,528.44 was expended in field employees' salaries. Using the 19.1% figure, **\$3,729.93** of their time went to targeting non-Democratic voters.
- \$27,000 was paid for a poll to likely voters in the special election, 19.1% of whom were identified as non-Democrats. **\$5,130** of the poll was used to communicate with these voters.
- **\$10,000** was expended on attorneys fees to qualify for the special election ballot.
- \$90,798.73 was expended on staff salary until the special election was cancelled. 19.1% of this expenditures is **\$17,342.56**.
- \$15,867.00 was expended on a holiday card mailing, 19.1% of which was sent to non-Democrats, constituting a **\$3,026.77**.

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In total, the campaign spent **\$290,554.23** on the cancelled special election, including literature and posters with the original March 24th date, copies of which are included in this email. The above figures do not include other ancillary expenditures that went indirectly to persuasion and turnout efforts targeted towards non-Democrats.

The Crowley campaign shall not treat these expenditures as part of the Democratic Party primary election cap. During the audit, should it become necessary, the campaign will provide whatever back-up documents it has to demonstrate such non-primary expenditures.

In addition to this issue of the expenditure cap, there is an additional, related issue. \$217,915 of the \$290,554.23 expended in relation to the special election was from public matching funds, a sum that reflects the Crowley campaign's successful fundraising of matchable funds for the special election. Were these matching funds to be simply applied to the Democratic Party primary matching fund formula, it would put Crowley at a disadvantage vis-à-vis her opponents who did not obtain significant matching funds for the special. Those candidates will be able to maximize their matching funds for the primary without being limited by previous receipt of matchable funds spent for the special. In a word, Crowley would be penalized for her success in raising matchable dollars for the now-defunct special election. The Crowley campaign should be able to have all of her eligible contributions for the primary matched.

Although the Democratic Party primary election is fast approaching, it would be useful for the Campaign Finance Board to opine on these issues in advance.

As always, thank you for your continuing courtesies.

Very truly yours,

s/

Jerry H. Goldfeder

N.B. Enclosed are PDFs of a sample of the campaign's literature and posters for the special election.

cc: Amy Loprest, Executive Director
Hillary Weisman, General Counsel