



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

BOARD OF ELECTIONS

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ALLAN FUNG/FUNG FOR GOVERNOR
CAMPAIGN FINANCE INVESTIGATION

Investigation Conducted By: Richard E. Thornton, Director of Campaign Finance

COMPLAINT FILED:

On July 16, 2018: Jon Blair, individually and in his capacity as Campaign Manager of Friends of Gina Raimondo, filed a verified complaint with the Rhode Island Board of Elections ("Board"), alleging violations of campaign finance law by Allan Fung and his campaign committee, Fung for Governor ("Fung").

RESPONSE FILED:

On July 24, 2018, attorneys Michael J. Lepizzera, Jr. and Stephen J. Angell delivered a Response to the verified complaint on behalf of Allan Fung/Committee for Allan Fung.

ALLEGED VIOLATION 2014:

2014: Fung made rent payments to Carpionato, totaling \$4,500. In 2016, \$1,000 was allegedly "refunded" to Fung by Carpionato, resulting in the receipt of an illegal corporate contribution (in-kind) from Carpionato in violation of RIGL 17-25-10.1(h)(1).

The \$3,500 Fung paid in rent to Carpionato is below fair market value or prevailing commercial rate, thus resulting in additional illegal corporate in-kind contribution from Carpionato to Fung for discounted rent throughout the 2014 election.

CAMPAIGN FINANCE INVESTIGATION 2014:

2014: The \$1,000 was not refunded by Carpionato to Fung in 2016 as alleged. Fung originally misreported rent expenditure dated August 29, 2014 for \$1,000 (check #1103). The error was recognized by Fung, who then amended the 2014 7 Days Before Primary report on October 25, 2016 to "delete" the transaction. Check #1103 was payable to Targeted Strategies LLC for \$7,000 and correctly reported on the same report. There was no refund. In 2014, the total rent paid by Fung to Carpionato was \$3,500.

ALLEGED VIOLATION 2016:

2016: Fung made three (3) payments for rent to Carpionato, totaling \$1,500. In 2017, \$1,500 was allegedly “refunded” to Fung by Carpionato, because Fung had someone who donated repairs inside the office space after a roof leak, and those repairs offset the cost of rent. Accordingly, either, the repairs to the office space could not offset the entire \$1,500 rent payment (thus resulting in an illegal \$500 corporate in-kind contribution from Carpionato) or Fung accepted an excessive in-kind contribution from the individual who provided the repair services, in violation of RIGL 17-25-10.1(a)(1).

CAMPAIGN FINANCE INVESTIGATION 2016:

2016: The headquarters rented in 2014 had the leaky roof and not the headquarters rented in 2016 as alleged. Rent was paid in 2016 from August-October. Initially, check # 1494 for \$1,500 was written to pay rents for Aug-Oct, but was voided by the treasurer and replaced with checks # 1498, 1499 and 1500, each for \$500 and forwarded to Carpionato. In April 2017, Campaign Finance recognized a variance between Fung’s campaign finance report balance as of December 31, 2016 and his campaign bank account balance as of the same date and requested an explanation. The variance was identified by Fung, which included the three (3) uncashed \$500 rent checks. In July 2017, Fung amended his 2016 28 Days After Election report to account for the uncashed checks and “Return” the funds to the campaign account. The \$1,500 was not refunded by Carpionato to Fung in 2016 as alleged. Fung, however, did not reissue checks totaling \$1,500 for 2016 rent to Carpionato in July 2017 when he amended his campaign finance report. After conferring with Campaign Finance on June 13, 2018, on June 14, Fung reissued \$1,500 to Carpionato to replace the checks that were not cashed by Carpionato for the 2016 rent.

On August 8, 2018, an attorney representing Carpionato responded that Carpionato’s failure to cash the checks was an administrative oversight, with no intent to contribute to Fung’s campaign, and the roof repairs referred to in the complaint were, upon reconsideration, at a property located near the Fung Campaign space, but at a time when the Fung Campaign was no longer occupying that space.

ALLEGED VIOLATIONS 2018:

2018: Since launching his gubernatorial campaign in October 2017, there is no record of rent payments to Carpionato from Fung, resulting in illegal corporate in-kind contribution. A balloon payment of \$3,100 for rent covering October 24, 2017 through March 31, 2018 was required to be paid to Carpionato by May 1, 2018. Fung failed to disclose the amount as an Accounts Payable on his campaign finance report when the obligation was incurred, not just when it was paid.

CAMPAIGN FINANCE INVESTIGATION 2018:

2018: On May 22, 2018, Fung’s campaign treasurer requested guidance from Campaign Finance related to the reporting of expenditures and was instructed to report expenditures when incurred and referred him to Section 10.1.5 of the Campaign Finance Manual. On May 30, 2018, Fung amended his 2017 4Q campaign finance report to disclose the \$3,100 Accounts Payable to Carpionato. On May 4, 2018, Fung paid Carpionato the \$3,100 balloon payment.

RECOMMENDATION:

No recommendation is forthcoming on the issue of fair market value of campaign rental space.

For 2014: Carpionato did not refund \$1,000 to the Fung Campaign as alleged.

For 2016: The Fung Campaign twice attempted to pay rent for the 3-month period, August-October 2016. Due to an administrative oversight by Carpionato which caused the checks to be uncashed, the failure of the Fung Campaign to reissue payment upon discovery of the uncashed checks in July 2017 and the failure of Campaign Finance to direct the Fung Campaign to reissue payment upon discovery of the uncashed check in July 2017, a recommendation the Board acknowledge the June 13, 2018 payment of the August-October 2016 rent as curative and issue a warning to the Fung Campaign against future violations of this type.

For 2018: Due to Fung Campaign's mistaken belief a campaign expense was reported when paid and not when the expense was incurred, which resulted in their failure to report its 2017-2018 rental agreement with Carpionato as an Accounts Payable, a recommendation the Board acknowledge the May 30, 2018 amended 2017 4Q campaign finance report as curative and issue a warning to the Fung Campaign against future violations of this type.

BOARD ACTION:

On August 22, 2018, the Board voted to accept the Recommendations related to payment and reporting issues in 2016 and 2018, and issue a warning to Allan Fung against future violations of a similar nature. The Board made no determination with respect to the issue of fair market value of rental space due to the lack of any regulations or guidelines at the present time.