

Philadelphia Board of Ethics

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Ethics Board Files Campaign Finance Enforcement Petition Against the McCaffery for District Attorney Campaign

PHILADELPHIA – The Philadelphia Board of Ethics filed a Petition in the Philadelphia Court of Common Pleas to enforce violations of the City’s campaign finance law committed by the McCaffery for District Attorney Candidate Committee, Dan McCaffery, and his treasurer, Joseph Fernandes.

The Board’s Petition alleges that the McCaffery Campaign deliberately violated the City’s campaign finance law, first by accepting more than the \$100,000 aggregate political action committee (“PAC”) contribution limit in 2008, and then by misstating the amount of money the McCaffery Campaign actually received from Mr. McCaffery’s law firm’s PAC, called the Pennsylvania Good Government Fund (“the Fund”), to hide the excess PAC contribution from the public.

Candidates for District Attorney cannot accept more than \$100,000 in the aggregate from PACs in non-election years pursuant to the contribution limits of the City’s campaign finance law. Since 2008 was a non-election year for the office of District Attorney, the \$100,000 aggregate PAC contribution limit applied to candidates who are currently seeking that office, including Mr. McCaffery.

By the end of December 2008, the McCaffery Campaign had accepted \$92,600 in the aggregate from various PACs. On December 30, 2009, Mr. McCaffery’s law firm’s PAC, called the Pennsylvania Good Government Fund (“the Fund”), wrote out a check in the amount of \$10,500 to the McCaffery Campaign. Because Mr. McCaffery was the treasurer of the Fund, he signed the check himself. When the Fund’s \$10,500 contribution is added to the \$92,600 that the McCaffery Campaign already received from other PACs in 2008, the Campaign exceeded the \$100,000 aggregate PAC contribution limit for 2008 by \$3,100, in violation of the City’s campaign finance law.

Realizing that acceptance of the Fund’s \$10,500 contribution check meant that the McCaffery Campaign would exceed the \$100,000 aggregate PAC

contribution limit, the Petition alleges that the McCaffery Campaign came up with a scheme to hide the excess contribution from the public by deliberately misstated the Fund's \$10,500 contribution check as only a \$7,400 contribution in its 2008 cycle 7 annual campaign finance report filed electronically with the Ethics Board on February 2, 2009. On Friday, May 8th, the McCaffery Campaign disclosed in its 2009 cycle 2 report that it received a \$3,100 contribution from the Fund on January 29, 2009, but there was no such contribution on or near that date, which was arbitrarily selected as the "allocation" date for the balance of the December 30, 2008 contribution check. The Petition alleges that the McCaffery Campaign simply made up the date for the \$3,100 "contribution" as the final step in its scheme to hide the excess PAC contribution. The deliberate misreporting of the Fund's \$10,500 contribution check as two lesser amounts on different dates in different calendar years as alleged in the Board's Petition constitute material misstatements, and are violations of the City's campaign finance law.

When the Ethics Board confronted the McCaffery Campaign about the misstated contribution amount, they claimed that the chairman of the Fund – one of Mr. McCaffery's law partners – had "allocated" \$7,400 of the single \$10,500 contribution check for 2008 and the remainder for 2009 in a letter that accompanied the check. The McCaffery Campaign also explained that the single \$10,500 check was "allocated" in this fashion in an attempt to avoid a violation of the \$100,000 aggregate PAC contribution limit. There is no legal basis for artificially "allocating" portions of a single contribution check into different calendar years.

"If political donors and the candidates they support were allowed to agree to misreport the actual amount of a contribution check by artificially 'allocating' portions of a single contribution check into different calendar years, then both the City's contribution limits and the entire campaign finance disclosure system would be rendered meaningless," said Ethics Board Chair Richard Glazer, Esquire.

The Ethics Board is seeking a monetary penalty of \$6,000 and an order from the Court compelling the McCaffery Campaign Committee to return an excess contribution and to file amended campaign finance reports.

The Philadelphia Board of Ethics is a five-member independent board established by ordinance, approved by Philadelphia voters in May 2006, and installed on November 27, 2006. It is charged with providing ethics training for all City employees and enforcing City campaign finance, financial disclosure and conflict of interest laws. The Ethics Board has authority to render advice, investigate complaints and issue fines.

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