



**New York City  
Campaign Finance Board**

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May 24, 2012

Veta Brome  
Marshall for Queens 2009



Dear Ms. Brome:

Please find attached the New York City Campaign Finance Board's (the "CFB" or "Board") Final Audit Report for the 2009 campaign of Helen Marshall (the "Campaign"). The report is based on a comprehensive review of the Campaign's financial disclosure statements and submitted documentation, and incorporates the Board's final determination of May 12, 2012 (attached). The report concludes that the Campaign did not fully demonstrate compliance with the requirements of the Campaign Finance Act (the "Act") and the Rules of the Board (the "Rules"), as detailed in the report.

As detailed in the attached Final Board Determination, the Campaign must repay the following:

Public Funds Repayment (Final Bank Balance)	\$52,647.81
Penalties Assessed	<u>\$1,730.00</u>
Total Owed	<u>\$54,377.81</u>

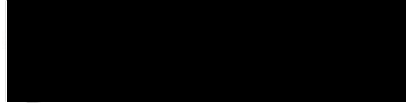
The Campaign previously paid the total amount owed, \$54,377.81, on April 2, 2012 and May 2, 2012.

The January 15, 2010 disclosure statement (#16) was the last disclosure statement the Campaign was required to file with the CFB for the 2009 elections. The Campaign is required to maintain its records for six years after the election, and the CFB may require the Campaign to demonstrate ongoing compliance. *See* Rules 3-02(b)(3), 4-01(a), and 4-03. In addition, please contact the Board of Elections for information concerning their separate filing requirements.



May 24, 2012

The CFB thanks you for your cooperation during the 2009 election cycle. Should you have any questions about the enclosed report, please contact the Audit Unit at 212-306-5250 or [AuditMail@nyccfb.info](mailto:AuditMail@nyccfb.info).

Sincerely, [signature on original]



Julius Peele  
Director of Auditing and Accounting

c: Helen Marshall  
  
Marshall for Queens 2009  


Attachments

**CAMPAIGN FINANCE BOARD  
FINAL AUDIT REPORT OF  
MARSHALL FOR QUEENS 2009**

**BACKGROUND**

Among the purposes of the Act are to diminish the role and influence of private money in New York City elections, to increase the information available to the public about elections and candidates' campaign finances, and to reduce the potential for actual or perceived corruption. The CFB is a nonpartisan, independent city agency that serves the public interest by enhancing the role of New York City residents in the electoral process. All candidates for the five covered offices - mayor, public advocate, comptroller, borough president, and City Council member - are required to disclose all campaign activity to the CFB.

All candidates must adhere to strict contribution limits and the ban on contributions from corporations, and beginning January 1, 2008, partnerships and limited liability entities. Additionally, participating candidates are prohibited from accepting contributions from unregistered political committees. The CFB also administers the voluntary Campaign Finance Program (the "Program"). Candidates who voluntarily participate in the Program can qualify to have private contributions matched with public money in exchange for agreeing to strict spending limits.

## CAMPAIGN INFORMATION

The table below provides detailed information about the Campaign:

Name: Helen Marshall	ID: E9
Office Sought: Borough President	District: Queens
Classification: Participant	Certification Date: June 10, 2009
Committee Name: Marshall for Queens 2009	Ballot Status: Primary, General
Primary Election Date: September 15, 2009	General Election Date: November 3, 2009
Other Committees: See Finding #2	Party: Democratic
<u>Public Funds:</u>	<u>Contribution Limit:</u>
Received: \$341,128.00	\$3,850
Returned: \$52,647.81	
	<u>Expenditure Limit:</u>
	2006-2008: \$129,000
	2009 Primary: \$1,386,000
	2009 General: \$1,386,000

## **OBJECTIVES**

The overall objective of the CFB's audit was to determine whether the Campaign complied with the Act and Rules. Specifically, CFB staff evaluated whether (1) the Campaign accurately reported financial transactions and maintained adequate books and records; (2) the Campaign adhered to contribution limits and prohibitions; (3) the Campaign disbursed funds in accordance with the Act and Rules and complied with the expenditure limits; and (4) the correct amount of public funds was received, any additional funds are due, or any return of public funds is required in accordance with the Act and Rules.

## **SCOPE AND METHODOLOGY**

Prior to the election, CFB staff performed an initial review of the Campaign's reporting and documentation of contributions for public funds eligibility and compliance with the Act and Rules. After the election, CFB staff performed an audit of financial disclosure statements seven through sixteen (see Appendix #1), covering the period from February 3, 2009 through January 11, 2010. The audit was conducted in accordance with generally accepted government auditing standards (GAGAS) and included tests of records and other auditing procedures as necessary. This audit was performed in accordance with the audit responsibilities of the CFB as set forth in Administrative Code §3-710.

CFB staff examined the bank statements submitted by the Campaign from February 3, 2009 through February 29, 2012 and reconciled transactions to the Campaign's disclosure statements during this period to verify that all financial transactions were accurately reported and documented.

CFB staff conducted a comprehensive review of all financial transactions reported in the Campaign's disclosure statements to determine whether contribution limits and prohibitions were adhered to. Additionally, CFB staff reviewed the Campaign's reported expenditures to ensure that the Campaign disbursed funds in accordance with the Act and Rules and complied with the expenditure limits.

CFB staff reviewed the Campaign's eligibility for public matching funds, all matchable contribution claims by the Campaign for compliance with the Act and Rules, and the Campaign's disbursements of public funds. The review was done to ensure that the correct amount of public funds was received by the Campaign, and to determine whether any additional public funds are due or whether any return of public funds by the Campaign is necessary.

On December 30, 2010, CFB staff issued a Draft Audit Report to the Campaign that contained preliminary findings of non-compliance with the Act and Rules and recommended corrective actions. The Campaign subsequently responded to the Draft Audit Report.

Based on CFB staff recommendations and the Campaign's responses, the Board issued this Final Audit Report.

## COMPLAINT

Allegations made by Lois Marbach, consultant for the Marc Leavitt campaign, on August 19, 2009:

- The Campaign failed to report expenditures or in-kind contributions related to a “Tribute to Helen Marshall” section, which appeared in the July 1-7, 2009 edition of the *Courier Sun*, a weekly publication in Queens. The section featured articles chronicling the work of Mrs. Marshall as Queens Borough President, photographs, and advertisements from businesses which included messages of support for Mrs. Marshall’s work.

The Campaign denied any role in the publication and provided an affidavit from the co-publisher of the *Courier Sun* stating that the Campaign had no role or participation in the tribute section.

On September 11, 2009, the Board dismissed the complaint.

## CONCLUSION

The Campaign did not fully demonstrate compliance with the requirements of the Campaign Finance Act and the Rules of the Board as detailed below:

**Disclosure Findings** - Accurate public disclosure is an important part of the CFB's mission. Findings in this section relate to the Campaign's failure to completely and timely disclose the Campaign's financial activity.

- The Campaign did not file the required daily disclosure statements during the two weeks preceding the 2009 general election (see Finding #1).
- The Campaign had more than one authorized committee active in the 2009 elections (see Finding #2). The Board found the Campaign in violation and assessed an \$855 penalty.

**Contribution Findings** - All campaigns are required to abide by contribution limits and adhere to the ban on contributions from prohibited sources. Further, campaigns are required to properly document and disclose all contributions. Findings in this section relate to the Campaign's failure to comply with the requirements for contributions under the Act and Rules.

- During the pre-election period, the Campaign accepted the following corporate contribution: E Elm Day Care Student Acct, \$150 on May 3, 2009. The Campaign refunded this contribution on July 24, 2009. The Board found the Campaign in violation and assessed a \$250 penalty.
- During the pre-election period, the Campaign accepted the following contribution from an unregistered political committee: Nat'l Grid Vol NYS PAC, \$300 on June 28, 2009. The Campaign refunded this contribution on July 24, 2009. The Board found the Campaign in violation and assessed a \$125 penalty.
- The Campaign accepted the following contribution that exceeded the applicable \$320 Borough President Doing Business limit, and failed to issue a refund within 20 days of receiving notice from the CFB:

<u>Name</u>	<u>Statement/ Schedule/ Transaction ID</u>	<u>Date of Notification</u>	<u>Refund Due Date</u>	<u>Contribution Amount</u>	<u>Amount Over-the- Limit</u>
Kaldawy, Showky	8/ABC/R0003189	06/02/09	06/22/09	\$1,000.00	\$680.00

The Campaign issued a refund by committee check, but it did not clear the Campaign's bank account until July 15, 2009. The Board found the Campaign in violation and assessed a \$250 penalty.



**Expenditure Findings** - Campaigns participating in the Program are required to comply with the spending limit. All campaigns are required to properly disclose and document expenditures and disburse funds in accordance with the Act and Rules. Findings in this section relate to the Campaign's failure to comply with the Act and Rules related to its spending.

- The Campaign did not provide requested documentation for reported transactions (see Finding #3). The Board found the Campaign in violation and assessed \$250 in penalties.

## **FINDINGS AND RECOMMENDATIONS**

### **1. Daily Pre-Election Disclosure – Statements of Contributions**

During the two weeks preceding an election, if a candidate: (1) accepts a contribution or contributions from a single source or loan in excess of \$1,000; or (2) makes an expenditure in excess of \$20,000, the candidate shall report such contributions, loans, and expenditures to the Board in a disclosure, received by the Board within 24 hours after it is accepted or made. These contributions and expenditures must also be reported in the Campaign's next disclosure statement. *See* Rule 3-02(e).

The Campaign did not file the required daily disclosure to report the following transaction that was reported on its subsequent financial disclosure statements:

#### **Contribution:**

<b><u>Name</u></b>	<b><u>Statement/ Schedule/ Transaction ID</u></b>	<b><u>Received Date</u></b>	<b><u>Amount</u></b>
RSPAC of New York	15/ABC/R0005981	10/22/09	\$1,500.00

#### **Previously Provided Recommendation**

You must explain why your failure to file the daily disclosure is not a violation. If you believe you filed the required daily disclosure, you should submit proof of the submission. Your Campaign cannot file any daily pre-election disclosures now.

#### **Campaign's Response**

The Campaign stated that failing to report this transaction in the daily pre-election disclosure period was the result of an oversight.

## **Board Action**

The Board has taken no further action on this matter other than to make it part of the Candidate's record with the Board.

### **2. Use of an Entity Other Than the Principal Committee**

Administrative Code §3-703(1)(e) requires that a candidate disclose, in the candidate certification, the existence of each authorized committee that has not been terminated. The principal committee designated in a candidate's certification must be the only committee authorized to "aid or otherwise take part in the election(s) covered by the candidate's certification." The use of an entity other than the designated principal committee to aid or otherwise take part in the election(s) covered by the candidate's certification is a violation of the Act and results in the application to the other entity's activity of the Act provisions and Board Rules governing principle committees. *See* Administrative Code §3-703(1)(e).

The Campaign was informed by CFB staff in early 2009 that the Candidate's 2005 committee, Marshall for Queens 2005, could not be registered as a political action committee in the current election cycle and that in order to use the funds still in the 2005 committee's bank account, the funds would have to be transferred to the 2009 committee. The Campaign was also informed that expenditures made by the 2005 committee after November 3, 2008 would be attributed to the Campaign's 2009 expenditure limit calculation, and that if Marshall for Queens 2005 has contributed over \$5,000 to other political committees/entities, the Campaign would be subject to a public funds reduction pursuant to Rule 5-01(n). *See* Advisory Opinion No. 2008-7. In addition, CFB staff notified the Campaign that any expenditures made by Marshall for Queens 2005 between

October 17, 2008 and November 3, 2008 appearing to be in furtherance of the Candidate's 2009 campaign would be attributed to the Campaign's expenditure limit calculation in the 2009 election cycle.

A review by CFB staff of New York State Board of Elections filings revealed that the Candidate's 2005 committee, Marshall for Queens 2005, was not terminated and continues to have activity (see also Finding #3c).

### **Previously Provided Recommendation**

You must explain how the Candidate is not in violation of the Act and Rules based on the existence of the second committee. In addition, you must provide copies of Marshall for Queens 2005's bank statements for the period starting October 17, 2008 through the present and copies of cancelled checks (see also Finding #3c). You must also submit documentation for each transaction listed on Exhibit I and explain how each expenditure is campaign-related.

### **Campaign's Response**

The Campaign stated that it had consulted with CFB staff regarding expenditures made by the Candidate's 2005 committee and that all expenditures made by this committee were fully disclosed. Furthermore, since many of these expenditures were made before the Candidate was eligible to, or had decided to, run for office again in 2009, or after the 2009 general election, the Campaign stated it did not believe that these were in furtherance of the Candidate's 2009 election. The Campaign also submitted copies of bank statements from the Candidate's 2005 committee from October 1, 2008 through May 31, 2011 and copies of the committee's filings with the Board of Elections. The Campaign did not submit the requested expenditure documentation for the transactions listed in Exhibit I.

**Board Action**

The Board found the Campaign in violation and assessed an \$855 penalty.

**3. Undocumented Transactions**

Campaigns are required to provide copies of checks, bills, or other documentation to verify all transactions reported in their disclosure statements. *See* Administrative Code §§3-703(1)(d), (g), and Rule 4-01. For each advance, campaigns are required to report the name and address of the person making the purchase (the advancer), the amount, and the name of the vendor from whom the purchase was made. *See* Administrative Code §§3-703(1)(g), 3-708(8) and Rule 3-03(c)(3).

- a) The Campaign reported but failed to adequately document the following in-kind contribution, and as a result the fair market value of the in-kind contribution could not be substantiated:

<u>Name</u>	<u>Transaction Type</u>	<u>Statement/ Schedule/ Transaction ID</u>	<u>Received Date</u>	<u>Amount</u>
Pi, Jerry*	In-Kind Contribution	9/D/R0003490	07/08/09	\$500.00

\* The Campaign provided a signed contribution card from Jerry Pi with a handwritten dollar amount in the upper left hand corner. However, this documentation did not specify what the contribution was or who wrote the dollar amount. As a result, the value could not be substantiated.

- b) The Campaign did not provide supporting documentation for the following reported expenditure refund:

<u>Name</u>	<u>Transaction Type</u>	<u>Statement/ Schedule/ Transaction ID</u>	<u>Refunded Date</u>	<u>Amount</u>
Staples Direct	Expenditure Refund	15/L/R0006013	10/08/09	\$560.66

c) The Campaign did not provide documentation for the following advances:

<u>Advancer Name</u>	<u>Vendor</u>	<u>Explanation</u>	<u>Statement/ Schedule/ Transaction ID</u>	<u>Date Reported</u>	<u>Amount</u>
Marshall for Queens 2005	Amtrak	Travel	10/P/R0003495	01/02/09	\$202.40
Marshall for Queens 2005	Caucus Meeting	Caucus Meeting	10/P/R0003497	02/11/09	\$525.00
Marshall for Queens 2005	NYS Assoc. Black & Hispanic	Travel	10/P/R0003499	04/15/09	\$360.39

**Previously Provided Recommendation**

a) You must provide supporting documentation for the in-kind contribution listed. Supporting documentation may include, but is not limited to, invoices, appraisals, and estimates of the fair market value. Documentation must include the name and address of the contributor, provide a detailed description of the goods/services, and explain the cost basis for valuing each in-kind contribution from the reported contributor. If your documentation is from a vendor whom the contributor paid, you must also provide evidence that the reported contributor paid the vendor, e.g., a copy of the cancelled check, or a signed statement from the contributor verifying that payment for the in-kind contribution was made by them. If your Campaign cannot document a fair market value, you must include an explanation why you cannot provide adequate documentation.

b and c) You must submit documentation for each transaction listed above. In addition, the Campaign must explain why the candidate’s 2005 committee, Marshall for Queens 2005, was used to pay expenditures for the 2009 election.

**Campaign’s Response**

a) The Campaign stated, “A signed in-kind contribution form has been submitted with the fair market value of goods given to the campaign by our donor, and

we do not have any other way of attesting to the value as expressed by our donor.”

- b) The Campaign did not address this finding with its response.
- c) The Campaign did not address this finding with its response. See also Finding #2.

**Board Action**

The Board found the Campaign in violation and assessed \$250 in penalties (\$50 for each transaction).

**New York City Campaign Finance Board  
Campaign Finance Information System  
Transaction Summary Report  
Appendix 1**

**Candidate:** Marshall, Helen M (ID:E9-P)**Office:** 4 (Boro President)**Election:** 2009

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1. Opening cash balance (All committees)		\$0.00
2. Total itemized monetary contributions (Sch ABC)		\$143,667.00
3. Total unitemized monetary contributions		\$0.00
4. Total in-kind contributions (Sch D)		\$750.00
5. Total unitemized in-kind contributions		\$0.00
6. Total other receipts (Sch E - excluding CFB payments)		\$0.00
7. Total unitemized other receipts		\$0.00
8. Total itemized expenditures (Sch F)		\$463,828.61
Expenditure payments	\$462,740.82	
Advance repayments	\$1,087.79	
9. Total unitemized expenditures		\$0.00
10. Total transfers-In (Sch G)		\$50,000.00
Type 1	\$0.00	
Type 2a	\$0.00	
Type 2b	\$50,000.00	
11. Total transfers-out (Sch H)		\$0.00
Type 1	\$0.00	
Type 2a	\$0.00	
Type 2b	\$0.00	
12. Total loans received (Sch I)		\$0.00
13. Total loan repayments (Sch J)		\$0.00
14. Total loans forgiven (Sch K)		\$0.00
15. Total liabilities forgiven (Sch K)		\$0.00
16. Total expenditures refunded (Sch L)		\$1,025.66
17. Total receipts adjustment (Sch M - excluding CFB repayments)		\$10,471.00
18. Total outstanding liabilities (Sch N - last statement submitted)		\$3,775.00
Outstanding Bills	\$3,775.00	
Outstanding Advances	\$0.00	
19. Total advanced amount (Sch X)		\$0.00
20. Net public fund payments from CFB		\$288,481.00
Total public funds payment	\$341,128.00	
Total public funds returned	(\$52,647.00)	
21. Total Valid Matchable Claims		\$57,118.00
22. Total Invalid Matchable Claims		\$6,913.00
23. Total Amount of Penalties Assessed		\$1,730.00
24. Total Amount of Penalty Payments		\$1,730.00
25. Total Amount of Penalties Withheld		\$0.00



**Exhibit I**  
**Marshall for Queens 2009**  
**2009 Elections**  
**Undocumented Transactions – Marshall for Queens 2005**  
**(see Finding #2)**

<u>Name</u>	<u>Transaction Type/ Check No.</u>	<u>Date</u>	<u>Amount</u>
Democratic Organization of Queens	1126	10/23/08	\$600.00
American Airlines	EBT	11/12/08	\$298.20
American Airlines	EBT	11/12/08	\$298.20
American Airlines	EBT	11/14/08	\$50.00
American Airlines	EBT	11/14/08	\$50.00
Holiday Inns	EBT	11/16/08	\$165.95
Alpha Sigma Foundation	1129	11/21/08	\$1,000.00
Learning Tree School	1130	12/17/08	\$500.00
Friends of Gregory Meeks	1131	12/19/08	\$500.00
Alpha Sigma Foundation	1133	12/07/09	\$1,000.00
New York Hillbillies	1134	12/07/09	\$720.00
Crowley for Congress	1136	12/09/09	\$1,000.00
Frank Lee	1137	12/15/09	\$1,200.00
Hilton Hotels	EBT	12/22/09	\$167.53
Patterson for Governor	1138	01/08/10	<u>\$1,000.00</u>
		<b>Total</b>	<b><u>\$8,549.88</u></b>