



New York City Campaign Finance Board
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Via C-Access
 May 6, 2016

Luis C. Torres
 Albert 2013
 105 Remsen Road
 Yonkers, NY 10710

Dear Luis C. Torres:

Please find attached the New York City Campaign Finance Board’s (“CFB” or “Board”) Final Audit Report for the 2013 campaign of Albert Alvarez (the “Campaign”). CFB staff prepared the report based on a review of the Campaign’s financial disclosure statements and documentation submitted by the Campaign.

This report incorporates the Board’s final determination of August 13, 2015 (attached). The report concludes that the Campaign did not fully demonstrate compliance with the requirements of the Campaign Finance Act (the “Act”) and Board Rules (the “Rules”).

As detailed in the attached Final Board Determination, the Campaign was assessed penalties totaling \$1,119. The Campaign previously paid this amount.

CATEGORY	AMOUNT
Penalties assessed	\$1,119
Amount previously paid	(\$1,119)
Total Owed	\$0

The January 15, 2014 disclosure statement (#16) was the last disclosure statement the Campaign was required to file with the CFB for the 2013 elections. If the Campaign raises additional contributions to pay outstanding liabilities, please note that all 2013 election requirements, including contribution limits, remain in effect. 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 New York State Board of Elections for information concerning its filing requirements.

The CFB appreciates the Campaign's cooperation during the 2013 election cycle. Please contact the Audit Unit at 212-409-1800 or AuditMail@nyccfb.info with any questions about the enclosed report.

Sincerely,

A black rectangular redaction box covering the signature of Souda S. Chapman.

Signature on original

Souda S. Chapman
Director of Auditing and Accounting

c: Albert Alvarez

A black rectangular redaction box covering contact information for Albert Alvarez.

Albert 2013
105 Remsen Road
Yonkers, NY 10710

Attachments



EC2013 Final Audit Report

Albert 2013

May 2016

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RESULTS IN BRIEF

The results of the New York City Campaign Finance Board’s (“CFB” or “Board”) review of the reporting and documentation of the 2013 campaign of Albert Alvarez (the “Campaign”) indicate findings of non-compliance with the Campaign Finance Act (the “Act”) and Board Rules (the “Rules”) 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 report or inaccurately reported financial transactions to the Board (see Finding #1).
- The Campaign did not disclose payments made by its vendors to subcontractors (see Finding #2).

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 disclose and document all contributions. Findings in this section relate to the Campaign’s failure to comply with the requirements for contributions under the Act and Rules.

- The Campaign accepted aggregate contributions exceeding the \$2,750 contribution limit for the 2013 election cycle (see Finding #3).
- The Campaign accepted a contribution from a prohibited source (see Finding #4).
- The Campaign did not disclose in-kind contributions received (see Finding #5).
- The Campaign did not provide intermediary affirmation statements for contributions received through intermediaries (see Finding #6).

Expenditure Findings

Campaigns participating in the Campaign Finance 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 properly report and/or document its joint expenditures (see Finding #7).
- The Campaign made expenditures that were not in furtherance of the Campaign (see Finding #8).
- The Campaign made post-election expenditures that are not permissible (see Finding #9).

BACKGROUND

The Campaign Finance Act of 1988, which changed the way election campaigns are financed in New York City, created the voluntary Campaign Finance Program. The Program increases the information available to the public about elections and candidates' campaign finances, and reduces the potential for actual or perceived corruption by matching up to \$175 of contributions from individual New York City residents. In exchange, candidates agree to strict spending limits. Those who receive funds are required to spend the money for purposes that advance their campaign.

The CFB is the nonpartisan, independent city agency that administers the Campaign Finance Program for elections to the five offices covered by the Act: Mayor, Public Advocate, Comptroller, Borough President, and City Council member. All candidates are required to disclose all campaign activity to the CFB. This information is made available via the CFB's online searchable database, increasing the information available to the public about candidates for office and their campaign finances.

All candidates must adhere to strict contribution limits and are banned from accepting contributions from corporations, partnerships, and limited liability companies. Additionally, participating candidates are prohibited from accepting contributions from unregistered political committees. Campaigns must register with the CFB, and must file periodic disclosure statements reporting all financial activity. The CFB reviews these statements after they are filed and provides feedback to the campaigns.

The table below provides detailed information about the Campaign:

Name: Albert Alvarez	Contribution Limit:
ID: 1684	\$2,750
Office Sought: City Council	
District: 15	Expenditure Limit:
	2010–2012: \$45,000
Committee Name: Albert 2013	2013 Primary: \$168,000
Classification: Participant	2013 General: N/A
Certification Date: June 10, 2013	
	Public Funds:
Ballot Status: Primary	Received: \$92,400
Primary Election Date: September 10, 2013	Returned: \$21,514
Party: Democratic	Campaign Finance Summary:
	http://bit.ly/1k8B1rU

SCOPE AND METHODOLOGY

Pursuant to Admin. Code § 3-710(1), the CFB conducted this audit to determine whether the Campaign complied with the Act and Rules. Specifically, we evaluated whether the Campaign:

1. Accurately reported financial transactions and maintained adequate books and records.
2. Adhered to contribution limits and prohibitions.
3. Disbursed funds in accordance with the Act and Rules.
4. Complied with expenditure limits.
5. Received the correct amount of public funds, or whether additional funds are due to the Campaign or must be returned.

Prior to the election, we performed preliminary reviews of the Campaign's compliance with the Act and Rules. We evaluated the eligibility of each contribution for which the Campaign claimed matching funds, based on the Campaign's reporting and supporting documentation. We also determined the Candidate's eligibility for public funds by ensuring the Candidate was on the ballot for an election, was opposed by another candidate on the ballot, and met the two-part threshold for receiving public funds. Based on various criteria, we also selected the Campaign for an onsite review, and visited the Campaign's location to observe its activity and review its recordkeeping. After the election, we performed an audit of all financial disclosure statements submitted for the election (see summary of activity reported in these statements at Appendix #1).

To verify that the Campaign accurately reported and documented all financial transactions, we requested all of the Campaign's bank statements and reconciled the financial activity on the bank statements to the financial activity reported on the Campaign's disclosure statements. We identified unreported, misreported, and duplicate disbursements, as well as reported disbursements that did not appear on the Campaign's bank statements. We also calculated debit and credit variances by comparing the total reported debits and credits to the total debits and credits amounts appearing on the bank statements. Because the Campaign reported that more than 10% of the dollar amount of its total contributions were in the form of cash contributions, we compared the total cash contributions reported to the total of cash deposits on itemized deposit slips.

As part of our reconciliation of reported activity to the bank statements the Campaign provided, we determined whether the Campaign properly disclosed all bank accounts. We also determined if the Campaign filed disclosure statements timely and reported required activity daily during the two weeks before the election. Finally, we reviewed the Campaign's reporting to ensure it disclosed required information related to contribution and expenditure transactions, such as intermediaries and subcontractors.

To determine if the Campaign adhered to contribution limits and prohibitions, we conducted a comprehensive review of the financial transactions reported in the Campaign's disclosure statements. Based on the Campaign's reported contributions, we assessed the total amount contributed by any one source and determined if it exceeded the applicable limit. We also determined if any of the contribution sources were prohibited. We reviewed literature and other documentation to determine if the Campaign accounted for joint activity with other campaigns.

To ensure that the Campaign disbursed funds in accordance with the Act and Rules, we reviewed the Campaign's reported expenditures and obtained documentation to assess whether funds were spent in furtherance of the Candidate's nomination or election. We also reviewed information from the New York State Board of Elections and the Federal Election Commission to determine if the Candidate had other political committees active during the 2013 election cycle. We determined if the Campaign properly disclosed these committees, and considered all relevant expenditures made by such committees in the assessment of the Campaign's total expenditures.

We requested records necessary to verify that the Campaign's disbursement of public funds was in accordance with the Act and Rules. Our review ensured that the Campaign maintained and submitted sufficiently detailed records for expenditures made in the election year that furthered the Candidate's nomination and election, or "qualified expenditures" for which public funds may be used. We specifically omitted expenditures made by the Campaign that are not qualified as defined by the Campaign Finance Act § 3-704.

We also reviewed the Campaign's activity to ensure that it complied with the applicable expenditure limits. We reviewed reporting and documentation to ensure that all expenditures—including those not reported, or misreported—were attributed to the period in which the good or service was received, used, or rendered. We also reviewed expenditures made after the election to determine if they were for routine activities involving nominal costs associated with winding up a campaign and responding to the post-election audit.

To ensure that the Campaign received the correct amount of public funds, and to determine if the Campaign must return public funds or was due additional public funds, we reviewed the Campaign's eligibility for public matching funds, and ensured that all contributions claimed for match by the Campaign were in compliance with the Act and Rules. We determined if the Campaign's activity subsequent to the pre-election reviews affected its eligibility for payment. We also compared the amount of valid matching claims to the amount of public funds paid pre-election and determined if the Campaign was overpaid, or if it had sufficient matching claims, qualified expenditures, and outstanding liabilities to receive a post-election payment. As part of this review, we identified any deductions from public funds required under Rule 5-01(n).

We determined if the Campaign met its mandatory training requirement based on records of training attendance kept throughout the 2013 election cycle. Finally, we determined if the Campaign submitted timely responses to post-election audit requests sent by the CFB.

Following an election, campaigns may only make limited winding up expenditures and are not going concerns. Because the activity occurring after the post-election audit is extremely limited,

the audit focused on substantive testing of the entire universe of past transactions. The results of the substantive testing served to establish the existence and efficacy of internal controls. The CFB also publishes and provides to all campaigns guidance regarding best practices for internal controls.

To determine if contributors were prohibited sources, we compared them to entities listed in the New York State Department of State's Corporation/Business Entity Database. Because this was the only source of such information, because it was neither practical nor cost effective to test the completeness of the information, and because candidates could provide information to dispute the Department of State data, we did not perform data reliability testing. To determine if reported addresses were residential or commercially zoned within New York City, we compared them to a database of addresses maintained by the New York City Department of Finance. Because this was the only source of such data available, because it was not cost effective to test the completeness of the information, and because campaigns had the opportunity to dispute residential/commercial designations by providing documentation, we did not perform data reliability testing.

In the course of our reviews, we determined that during the 2013 election cycle a programming error affected C-SMART, the application created and maintained by the CFB for campaigns to disclose their activity. Although the error was subsequently fixed, we determined that certain specific data had been inadvertently deleted when campaigns amended their disclosure statements and was not subsequently restored after the error was corrected. We were able to identify these instances and did not cite exceptions that were the result of the missing data or recommend violations to the Board. The possibility exists, however, that we were unable to identify all data deleted as a result of this error.

The CFB's Special Compliance Unit investigated any complaints filed against the Campaign that alleged a specific violation of the Act or Rules. The Campaign was sent a copy of all formal complaints made against it, as well as relevant informal complaints, and was given an opportunity to submit a response.

The Campaign was provided with a preliminary draft of this audit report and was asked to provide a response to the findings. The Campaign was subsequently informed of its alleged violations, and was asked to respond. The Campaign responded and the CFB evaluated any additional information provided by the Campaign. CFB staff recommended that the Board find that the Campaign committed violations subject to penalty. The Campaign chose not to contest the CFB staff recommendations. The Board's actions are summarized as a part of each Finding in the Audit Results section. The finding numbers and exhibit numbers, as well as the number of transactions included in the findings, may have changed from the Draft Audit Report to the Final Audit Report.

COMPLAINTS

Complaint by Juan Antigua¹

On September 5, 2013, Juan Antigua filed a complaint alleging the following:

Allegation

The Campaign failed to report expenditures related to office rent and services provided by Mike Nieves. The complaint also alleged that the Campaign was collaborating with the campaign of Eliot Spitzer (“Spitzer campaign”). The complainant cited news articles regarding the Campaign’s activities, office space, and collaboration with the Spitzer campaign.

CFB Review

The Campaign provided the following information in response to CFB inquiries regarding the allegation:

The Campaign provided a copy of its lease agreement as well as a payment check dated August 9, 2013, which it had failed to disclose as required. CFB staff directed the Campaign to report the transaction, which it did in December 2013 in an amendment to disclosure statement #12.

In addition, the Campaign stated that it paid Mr. Nieves for services rendered to the Campaign, and provided corroborating documentation. However, the Campaign stated that Mr. Nieves was also being paid by the Spitzer campaign and used the Campaign office for Spitzer campaign work, for which the Campaign did not receive payment from the Spitzer campaign, nor did it consider itself to have made in-kind contributions to the Spitzer campaign.

The Campaign stated that Mr. Nieves’s use of the Campaign office on behalf of the Spitzer campaign was limited to it being an assembly point for Spitzer staff reporting to Mr. Nieves, that such staff neither had an assigned space nor stayed in the office after dispatching workers, and that a 2 foot by 3 foot space was used to store Spitzer-related materials.

Resolution

CFB staff concluded that the benefit to the Spitzer campaign by Mr. Nieves’ use of the Campaign’s office was de minimis.

¹ The complainant was the manager of the campaign of Ritchie Torres, who opposed the Candidate in the 2013 Democratic primary.

AUDIT RESULTS

Disclosure Findings

1. Financial Disclosure Reporting - Discrepancies

Campaigns are required to report every disbursement made, and every contribution, loan, and other receipt received. *See* Admin. Code § 3-703(6); Rule 3-03. In addition, campaigns are required to deposit all receipts into an account listed on the candidate’s Certification. *See* Admin. Code § 3-703(10); Rule 2-06(a). Campaigns are also required to provide the CFB with bank records, including periodic bank statements and deposit slips. *See* Admin. Code §§ 3-703(1)(d), (g); Rules 4-01(a), (b)(1), (f).

The Campaign provided the following bank statements:

BANK	ACCOUNT #	ACCOUNT TYPE	STATEMENT PERIOD
Citibank	XXXXXX3180	Checking	Dec 2012 – Jul 2014 Sep 2014 – Nov 2014

Below are the discrepancies and the additional records needed, as identified by a comparison of the records provided and the activity reported by the Campaign on its disclosure statements.

a) The Campaign must provide the bank statement listed below:

BANK	ACCOUNT #	STATEMENT PERIOD
Citibank	XXXXXX3180	Aug 2014

b) The Campaign did not report the transactions listed on Exhibit I that appear on its bank statements.

c) The Campaign reported the transaction listed on Exhibit II that does not appear on its bank statements.

d) The Campaign must provide copies of the itemized deposit slips listed below:

DATE OF DEPOSIT	DOLLAR AMOUNT
01/11/13	\$2,375.00
01/23/13	\$350.00
02/19/13	\$385.00
03/03/13	\$1,350.00
05/22/13	\$30.00

e) A review of the Campaign's deposit slips revealed the following discrepancy:²

TOTAL REPORTED CASH RECEIPTS	TOTAL CASH PER DEPOSIT SLIPS	DOLLAR VARIANCE	PERCENT VARIANCE
\$5,480.00	\$5,200.00	\$280.00	5.11%

Also see Finding d) above

Previously Provided Recommendation

a) The Campaign must provide all pages of the requested bank statements.

b) The Campaign must amend its disclosure statements to report these transactions. The Campaign must also provide documentation for each transaction. Because bank statements provide limited information about a transaction, the Campaign should review invoices or other records to obtain all of the information necessary to properly report the transaction.

c) For each transaction reported in the Campaign's disclosure statements that does not appear on the Campaign's bank statements, the Campaign must provide evidence to show that the transaction cleared the bank (i.e., a copy of the front and back of the check, and the bank statement showing the payment). Alternatively, the Campaign may provide evidence that the transaction was reported in error, or amend the Campaign's disclosure statement to void the check. For each voided check, the Campaign must either issue a replacement check or forgive the expenditure payment. Any forgiven liabilities will be considered in-kind contributions, which could result in contribution limit violations, or be considered contributions from a prohibited source. The Campaign may need to contact the payee to determine why the transaction did not clear.

² The percentage variance is determined by subtracting the Total Cash Per Deposit Slips from the Total Reported Cash Receipts, and then dividing by the Total Reported Cash Receipts. A positive variance indicates that the Total Reported Cash Receipts exceeds the Total Cash Per Deposit Slips. A negative variance indicates that the Total Reported Cash Receipts is less than the Total Cash Per Deposit Slips.

- d) The Campaign must provide copies of the requested itemized deposit slips.
- e) To resolve the listed discrepancies, the Campaign must compare the cash receipts reported in its financial disclosure statements to supporting documentation, including deposit slips, bank statements, and any documentation not previously submitted. The Campaign should also review documentation to ensure that it correctly characterized the instrument type (i.e., Cash, Credit Card, Check, etc.) of each receipt it reported. The Campaign may need to amend its disclosure statements as a result.

Please note that any newly entered transactions that occurred during the election cycle (01/12/10—01/11/14) will appear as new transactions in an amendment to Disclosure Statement 16, even if the transaction dates are from earlier periods. Any transactions dated after the election cycle will appear in disclosure statements filed with the New York State Board of Elections. Also note that the Campaign must file an amendment for each disclosure statement in which transactions are being modified. Once all data entry is completed, the Campaign should run the Modified Statements Report in C-SMART to identify the statements for which the Campaign must submit amendments. The C-SMART draft and final submission screens also display the statement numbers for which the Campaign should file amendments. If the Campaign added any new transactions, it must submit an amendment to Disclosure Statement 16.³

Campaign's Response

- a) In response to the Draft Audit Report dated December 22, 2014, the Campaign provided the March 2014 to July 2014 and the September 2014 to November 2014 bank statements. However, the Campaign failed to provide the August 2014 bank statement. In response to the Notice of Alleged Violations and Recommended Penalties, the Campaign stated that it did not contest this finding.
- b) In response to the Draft Audit Report, the Campaign stated that a “response will follow under separate cover.” However, the Campaign did not provide an additional response or documentation.
- c) In response to the Draft Audit Report dated December 22, 2014, the Campaign stated the uncleared transaction was a reimbursement to the treasurer that had yet to be cashed as of the November 2014 bank statement. The transaction did not appear on subsequent bank statements submitted by the Campaign.
- d) In response to the Draft Audit Report, the Campaign stated that a “response will follow under separate cover.” However, the Campaign did not provide an additional response or documentation.
- e) In response to the Draft Audit Report, the Campaign stated that a “response will follow under separate cover.” However, the Campaign did not provide an additional response or

³ If the Campaign amends its reporting with the CFB, it must also submit amendments to the New York State Board of Elections.

documentation. In response to the Notice of Alleged Violations and Recommended Penalties, the Campaign stated that it did not contest this finding.

Board Action

- a) The Board found the Campaign in violation and assessed \$50 in penalties.
- b – d) The Board has taken no further action on this matter other than to make this a part of the Candidate’s record with the Board.
- e) The Board found the Campaign in violation and assessed \$70 in penalties.

2. Disclosure – Possible Subcontractors

Subcontractors are vendors that a campaign’s vendor hires to supply goods/services. If a vendor hired by a campaign pays a subcontractor more than \$5,000, the campaign must report the vendor, the name and address of the subcontractor, the amounts paid to the subcontractor, and the purpose of the subcontracted goods/services. *See* Rule 3-03(e)(3).

The vendors listed below received large payments and may have subcontracted goods and services. However, the Campaign did not report subcontractors used by these vendors:

PAYEE	AMOUNT PAID
Mario Clavaquin	\$11,500.00
Valentin Consulting	\$21,894.96

Previously Provided Recommendation

The Campaign must contact the vendors, who must verify whether subcontractors were used. The Campaign may provide the vendor with a copy of the Subcontractor Form (available on the CFB website at http://www.nyccfb.info/PDF/forms/subcontractor_disclosure_form.pdf) for this purpose, and submit the completed form with the Campaign’s response. In addition, if subcontractors were used and paid more than \$5,000, the Campaign must amend its disclosure statements to report subcontractor information. If the vendor does not complete the Subcontractor Form, the Campaign should submit documentation of its attempts to obtain this information, including copies of certified mail receipts and the letters sent to the vendors.

Campaign’s Response

In response to the Draft Audit Report dated December 22, 2014, the Campaign provided emails as evidence of its attempts to obtain Subcontractor Disclosure Forms from the vendors listed above. The Campaign did not provide the Subcontractor Disclosure Forms.

Board Action

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

Contribution Findings

3. Prohibited Contributions – Contributions Over the Limit

Campaigns may not accept contributions, either directly or by transfer, from any single source in excess of the applicable contribution limit for the entire election cycle. A single source includes, but is not limited to, any person or entity who or which establishes, maintains, or controls another entity and every entity so established, maintained, or controlled. *See* Rule 1-04(h). Cumulative contributions from a single source may include monetary contributions, in-kind contributions, and outstanding loans or advances, etc.

Candidates participating in the Program may contribute up to three times the contribution limit to their own campaign. *See* Admin. Code § 3-703(1)(h). Non-participating candidates are not limited in the amount they can contribute to their own campaign from their own money. *See* Admin. Code § 3-719(2)(b).

A loan not repaid by the day of the election is considered a contribution subject to the contribution limit. Loans that are forgiven or settled for less than the amount owed are also considered contributions. *See* Admin. Code § 3-702(8); Rules 1-05(a), (j).

The Campaign accepted a loan in excess of the contribution limit in the instance detailed in Exhibit III, and did not repay the loan by the date of the next election. The Campaign repaid the loan after the election.

Previously Provided Recommendation

The Campaign previously resolved this contribution limit finding by documenting the loan repayment, and no further response is necessary at this time. However, the finding may still be subject to penalty. If the Campaign disagrees with this finding, it must provide an explanation and documentation to demonstrate that it did not accept contributions in excess of the limit.

Campaign's Response

In response to the Draft Audit Report dated December 22, 2014, the Campaign stated it would provide a notarized statement from the lender. However, the Campaign did not submit additional documentation. The Campaign did not contest this violation in response to its Notice of Alleged Violations and Recommended Penalties dated July 20, 2015.

Board Action

The Board found the Campaign in violation and assessed \$500 in penalties.

4. Prohibited Contributions – Corporate/Partnership/LLC

Campaigns may not accept, either directly or by transfer, any contribution, loan, guarantee, or other security for a loan from any corporation. This prohibition also applies to contributions received after December 31, 2007 from any partnership, limited liability partnership (LLP), or limited liability company (LLC). *See* New York City Charter §1052(a)(13); Admin. Code §§ 3-703(1)(l), 3-719(d); Rules 1-04(c), (e).

The Campaign accepted contributions from a corporate entity in the form of a discount in the following instances:

CONTRIBUTIONS FROM PROHIBITED SOURCES					
NAME	STATEMENT/ SCHEDULE/ TRANSACTION	RECEIVED DATE	AMOUNT	NOTE	
Desktop Publishing Supplies, Inc.	8/P/R0000570	04/12/13	\$19.98	(1)	
Desktop Publishing Supplies, Inc.	8/P/R0000669	06/12/13	\$25.97	(1)	

(1) *See* also Finding #5 and Exhibit IV.

Previously Provided Recommendation

The Campaign must address each transaction individually:

- The Campaign must refund each prohibited contribution by bank or certified check, and provide the CFB with a copy of the refund check, or pay the Public Fund an amount equal to the contribution.
- Alternatively, the Campaign may provide documentation or evidence showing that the contribution was not from a prohibited entity.

Even if the prohibited contribution is refunded, accepting a prohibited contribution may result in a finding of violation and the assessment of a penalty.

Campaign’s Response

In response to the Draft Audit Report dated December 22, 2014, the Candidate issued a personal check dated December 19, 2014 for \$45.95 payable to the NYC Campaign Finance Board. The

amount of the refund equals the discounted amount that resulted in the prohibited contributions. The Campaign did not contest this violation in response to its Notice of Alleged Violations and Recommended Penalties dated July 20, 2015.

Board Action

The Board found the Campaign in violation and assessed \$45 in penalties.

5. Undocumented or Unreported In-Kind Contributions

In-kind contributions are goods or services provided to a campaign for free, paid by a third party, or provided at a discount not available to others. The amount of the in-kind contribution is the difference between the fair market value of the goods or services and the amount the Campaign paid. Liabilities for goods and services for the Campaign which are forgiven, in whole or part, are also in-kind contributions. In addition, liabilities for goods and services outstanding beyond 90 days are in-kind contributions unless the vendor has made commercially reasonable attempts to collect. An in-kind contribution is both a contribution and expenditure subject to both the contribution and expenditure limits. Volunteer services are not in-kind contributions. In-kind contributions are subject to contribution source restrictions. *See* Admin. Code § 3-702(8); Rules 1-02 and 1-04(g). Campaigns may not accept contributions from any corporation, partnership, limited liability partnership (LLP), or limited liability company (LLC). *See* Admin. Code § 3-703(1)(l).

Campaigns are required to report all in-kind contributions they receive. *See* Admin. Code § 3-703(6); Rule 3-03. In addition, campaigns are required to maintain and provide the CFB documentation demonstrating the fair market value of each in-kind contribution. *See* Admin. Code §§ 3-703(1)(d), (g); Rules 1-04(g)(2) and 4-01(c).

Invoices for the expenditures listed below indicate that the Campaign received a discount in connection with the goods/services being provided.

NAME	STATEMENT/ SCHEDULE/ TRANSACTION	INVOICE DATE	AMOUNT	DISCOUNTED AMOUNT	NOTE
Desktop Publishing Supplies, Inc.*	8/P/R0000570	04/12/13	\$197.17	\$19.98	(1)
Desktop Publishing Supplies, Inc.*	9/P/R0000669	06/12/13	\$252.69	\$25.97	(1)

*This may also be a prohibited corporate contribution. *See* Admin. Code §§ 3-703(1)(l), 3-719(2)(b); Rule 1-04(e).

(1) *See* Exhibit IV.

Previously Provided Recommendation

The Campaign must provide an explanation for the discount noted in the documentation. If the discount is routinely available to the general public or others, the Campaign must provide written confirmation from the vendor. If the discount is not routinely available to others, the Campaign must report the amount of the discount as an in-kind contribution from the vendor and submit an amendment to Statement 16. If the vendor is a prohibited source, the Campaign must pay the amount of the discount to the vendor by bank or certified check and provide the CFB with copies of the refund check or pay the Public Fund an amount equal to the amount of the prohibited contribution.

Campaign's Response

In response to the Draft Audit Report dated December 22, 2014, the Candidate issued a personal check dated December 19, 2014 for \$45.95 payable to the NYC Campaign Finance Board. The amount of the refund equals the discounted amount that resulted in the prohibited contributions. The Campaign did not contest this violation in response to its Notice of Alleged Violations and Recommended Penalties dated July 20, 2015

Board Action

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

6. Intermediary Statements and Possible Unreported Intermediaries

Campaigns are required to report all contributions delivered or solicited by an intermediary. Intermediaries are people who solicit or deliver contributions to campaigns. *See* Admin. Code §§ 3-702(12), 3-703(6); Rules 3-03(c)(1), (7). Campaigns are required to provide a signed intermediary affirmation statement for each intermediary containing the intermediary's name, residential address, employer and business address, names of the contributors, the amounts contributed and specific affirmation statements. *See* Rule 4-01(b)(5).

The Campaign did not report intermediaries for contributions shown on the attached Exhibit V, which appear, from the information reported, to have been intermediated.⁴

Previously Provided Recommendation

The Campaign must describe how each group of contributions listed was solicited and/or delivered. If they were solicited and/or delivered by an intermediary, the Campaign must amend its disclosure statement(s) to reflect this information and provide an intermediary affirmation statement for each previously unreported intermediary.

Campaign's Response

In response to the Draft Audit Report, the Campaign stated that a "response will follow under separate cover." However, the Campaign did not provide an additional response or documentation. The Campaign did not contest this violation in response to its Notice of Alleged Violations and Recommended Penalties dated July 20, 2015.

Board Action

The Board found the Campaign in violation and assessed \$100 in penalties.

Expenditure Findings

7. Undocumented/Unreported Joint Expenditures

Campaigns are permitted to engage in joint campaign activities, provided that the benefit each candidate derives from the joint activity is proportionally equivalent to the expenditure. *See* Admin. Code § 3-715; Rule 1-04(p).

⁴ The Campaign was previously notified of this finding on July 29, 2013 and August 15, 2013.

Upon request from the CFB, a campaign is required to provide copies of checks, bills, or other documentation to verify contributions, expenditures, or other transactions reported in disclosure statements. *See* Admin. Code §§ 3-703(1)(d), (g); Rule 4-01.

The Campaign submitted a palm card entitled “Vote Fairness & Justice” that features the Candidate, Eliot Spitzer, William Thompson, and Haile Rivera and asked people to vote on September 10. A copy of this literature is included as Exhibit VI. Based on a review of this information, the Campaign did not fully account for the joint campaign activity with Eliot Spitzer, William Thompson, and Haile Rivera.

Previously Provided Recommendation

If the Campaign previously accounted for the joint activity described above in its reporting, it must identify the associated transaction reported by the Campaign by Transaction ID and provide documentation for the expenditure. If the Campaign did not report the expenditure, it must amend its disclosure statements to report the transaction. Additionally, the Campaign must provide a methodology for the cost allocations for each campaign’s share, and indicate whether the other campaigns have paid for their shares of the expenditure. If the other campaigns paid the Campaign (as opposed to paying the vendors), the Campaign must also identify by Transaction ID the incoming Other Receipts transactions. If the Campaign has not reported Other Receipts received, it must amend its disclosure statements to report the transaction. The Campaign must provide supporting documentation for its responses.

Campaign’s Response

In response to the Draft Audit Report, the Campaign stated that a “response will follow under separate cover.” However, the Campaign did not provide an additional response or documentation. The Campaign did not contest this violation in response to its Notice of Alleged Violations and Recommended Penalties dated July 20, 2015.

Board Action

The Board found the Campaign in violation and assessed \$100 in penalties.

8. Expenditures – Not In Furtherance of the Campaign

Campaigns may only spend campaign funds for items that further the candidate’s election. Campaigns must keep detailed records to demonstrate that campaign funds were used only for those purposes. *See* Admin. Code §§ 3-703(1)(d), (g); Rule 4-01. The law gives examples of the types of expenditures that are presumed to be campaign-related, although in certain circumstances expenditures of the types listed as appropriate may be questioned. Among the relevant factors are: the quality of the documentation submitted; the timing and necessity of the expenditure; the

amount of the expenditure and/or all expenditures of a specific type in relation to the Campaign’s total expenditures; and whether the expenditure is duplicative of other spending. The law also prohibits the conversion of campaign funds to personal use which is unrelated to a political campaign, and provides examples of expenditures that are not in furtherance of a campaign. *See* New York State Election Law §14-130; Admin. Code §§ 3-702(21), 3-703, and 3-710(2)(c); Rules 1-03(a), and 5-03(e), and Advisory Opinion No. 2007-3 (March 7, 2007). Expenditures not demonstrated to be in furtherance of the candidate’s election are considered “non-campaign related.”

The Campaign reported the expenditures listed below which—based on the reporting and/or documentation—are non-campaign related:

PAYEE	STATEMENT/ SCHEDULE/ TRANSACTION	PURPOSE CODE	INVOICE DATE	DATE PAID	AMOUNT	NOTE
Metro PCS Store #9112	11/F/R0000844	OFFCE	08/21/13	08/21/13	\$269.88	
Metro PCS Store #9112	12/F/R0001345	OFFCE	08/29/13	08/29/13	\$269.88	
Best Buy	12/F/R0001362	OFFCE	09/09/13	09/09/13	\$76.20	
Total					\$615.96	

See also Finding #12.

Previously Provided Recommendation

This finding was identified as a result of the Campaign’s response to the Draft Audit Report dated December 22, 2014.

The Campaign may be able to reduce this penalty by explaining how each expenditure listed was in furtherance of the Campaign, including details of how, when, where, and by whom the purchased goods were used and by providing supporting documentation.

Campaign’s Response

In response to the expenditure documentation finding in the Draft Audit Report, the Campaign stated that a “response will follow under separate cover.” However, the Campaign did not provide an additional response or documentation. The Campaign did not contest this violation in response to its Notice of Alleged Violations and Recommended Penalties dated July 20, 2015.

Board Action

The Board found the Campaign in violation and assessed \$154 in penalties.

9. Expenditures – Improper Post-Election

After the election, campaigns may only make disbursements for the preceding election, or for limited, routine activities of nominal cost associated with winding up a campaign and responding to the post-election audit. Campaigns have the burden of demonstrating that post-election expenditures were for the preceding election or the limited and routine activities described in the law. *See* Admin. Code § 3-710(2)(c); Rule 5-03(e)(2).

Each expenditure listed below is an improper post-election expenditure due to the timing, amount and/or purpose reported by the Campaign or identified from a review of Campaign bank statements and/or documentation:

PAYEE	STATEMENT/ SCHEDULE/ TRANSACTION	PURPOSE CODE	INVOICE DATE	DATE PAID	AMOUNT	NOTES
Frances Rodriguez	Unreported	N/A	N/A	09/11/13	\$75.00	(1)

(1) *See* also Finding #1 b) and Exhibit I.

Previously Provided Recommendation

The Campaign must explain how each expenditure was for the preceding election, or was a routine and nominal expenditure associated with winding up the Campaign, and must provide supporting documentation. Expenditures that are not proper post-election expenditures may increase the amount of public funds that must be repaid.

Campaign’s Response

In response to the Draft Audit Report, the Campaign stated that a “response will follow under separate cover.” However, the Campaign did not provide an additional response or documentation. The Campaign did not contest this violation in response to its Notice of Alleged Violations and Recommended Penalties dated July 20, 2015.

Board Action

The Board found the Campaign in violation and assessed \$100 in penalties.

We performed this audit in accordance with the audit responsibilities of the CFB as set forth in Admin. Code § 3-710. We limited our review to the areas specified in this report's audit scope.

Respectfully submitted,



Signature on original

Sauda S. Chapman

Director of Auditing and Accounting

Date: May 6, 2016

Staff: Selene Muñoz

Hormis Thaliath

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

Candidate: Alvarez, Albert (ID:1684-P)**Office:** 5 (City Council)**Election:** 2013

1. Opening cash balance (All committees)		\$0.00
2. Total itemized monetary contributions (Sch ABC)		\$24,360.00
3. Total unitemized monetary contributions		\$0.00
4. Total in-kind contributions (Sch D)		\$498.59
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)		\$94,346.40
Expenditure payments	\$90,500.95	
Advance repayments	\$3,845.45	
9. Total unitemized expenditures		\$0.00
10. Total transfers-In (Sch G)		\$0.00
Type 1	\$0.00	
Type 2a	\$0.00	
Type 2b	\$0.00	
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)		\$10,000.00
13. Total loan repayments (Sch J)		\$10,000.00
14. Total loans forgiven (Sch K)		\$0.00
15. Total liabilities forgiven (Sch K)		\$0.00
16. Total expenditures refunded (Sch L)		\$0.00
17. Total receipts adjustment (Sch M - excluding CFB repayments)		\$200.00
18. Total outstanding liabilities (Sch N - last statement submitted)		\$1,070.00
Outstanding Bills	\$1,070.00	
Outstanding Advances	\$0.00	
19. Total advanced amount (Sch X)		\$0.00
20. Net public fund payments from CFB		\$70,886.00
Total public funds payment	\$92,400.00	
Total public funds returned	(\$21,514.00)	
21. Total Valid Matchable Claims		\$16,105.00
22. Total Invalid Matchable Claims		\$1,070.00
23. Total Amount of Penalties Assessed		\$1,119.00
24. Total Amount of Penalty Payments		\$1,119.00
25. Total Amount of Penalties Withheld		\$0.00

Exhibit I
Albert 2013
Unreported Transactions
(see Finding #1b)

Payee	Check No./ Transaction	Date	Amount	Notes
Citibank	Debit	03/08/13	\$ 19.00	
Citibank	Debit	06/10/13	\$ 10.00	(1)
Comp and Save Ink & Toner	Debit	08/16/13	\$ 225.39	
Cash	1027	09/05/13	\$ 500.00	
Incoming Wire Tran Fee	Debit	09/09/13	\$ 12.00	
ACH Debit Delux Check	Debit	09/10/13	\$ 119.74	
Frances Rodriguez	1155	09/11/13	\$ 75.00	(2)
Service Charge	Debit	10/08/13	\$ 12.50	
Total			\$ 973.63	

Notes:

- (1) This transaction is currently reported as a bill (outstanding liability). The Campaign must report the bill payment.
(2) See also Finding #9.

Exhibit II
Albert 2013
Uncleared Transactions
(see Finding #1c)

Transaction ID	Payee	Account	Check No./ Transaction	Date	Amount
R0001408	Torres, Luis C	3180	1262	01/11/14	\$ 8.98
Total					\$ 8.98

Exhibit III
Albert 2013
Previously Repaid Loan Over the Contribution Limit
(see Finding #3)

Name	Statement/ Schedule/ Transaction ID	Transaction Type	Incurred/ Received/ Refunded Date	Amount	Notes
Alvarez, Efrain	6/ABC/R0000016	Monetary Contribution	01/11/13	\$175.00	
Alvarez, Efrain	9/ABC/R0000707	Monetary Contribution	06/19/13	\$20.00	
Alvarez, Efrain	11/D/R0000864	In-Kind Contribution	08/11/13	\$101.05	
Alvarez, Efrain	11/D/R0000865	In-Kind Contribution	08/12/13	\$60.54	
Alvarez, Efrain	11/D/R0000859	In-Kind Contribution	08/25/13	\$37.93	
Alvarez, Efrain	12/I/R0000871	Loan	09/05/13	\$10,000.00	
Alvarez, Efrain	12/J/R0000873	Loan Repayment	09/13/13	(\$10,000.00)	(1)
Total				\$10,394.52	
Office Limit				(\$2,750.00)	
Amount Over the Limit				<u>\$7,644.52</u>	

Notes:

- (1) The Campaign provided a copy of the loan repayment check of \$10,000.00 issued to Efrain Alvarez, the lender, dated September 9, 2013. The Campaign's bank statement shows the loan repayment check cleared the bank on September 13, 2013, after the day of the election. Loans not repaid by the day of the election are considered a contribution and are subject to the contribution limit. *See* Admin. Code § 3-702(8); Rules 1-05(a), (j). Therefore, on September 10, 2013, Efrain Alvarez exceeded the contribution limit by \$7,644.52.

Exhibit IV

Albert 2013

Corporate/Unreported In-kind Contributions – Desktop Publishing Supplies, Inc.

(see Findings #4 and 5)

Desktop Publishing Supplies Inc.

34 Raccio Park Road, Unit 8, Hamden, CT 06514
1-800-443-3645

www.DesktopSupplies.com | www.DesktopPapers.com

Invoice

DATE
4/12/2013

159065



Bill To:

Albert Alvarez
[Redacted]
[Redacted]

Ship To:

Albert Alvarez
[Redacted]
[Redacted]

Order Number	Sale Date	Ship Via	Paymethod	Terms
287804	4/12/2013	UPS	Credit	

ProductNo	Quantity	Description	Price	Discount	Extended Price
51210-250	5	Postcard, 4-up, White, 80lb, 250 Sheets	\$39.95		\$199.75
DISCOUNT	1		-\$19.98		-\$19.98

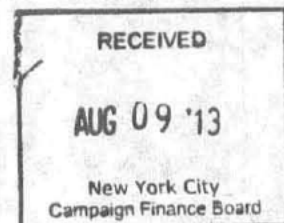
Subtotal: \$179.77
Sales Tax: \$.00
Shipping: \$17.40

www.DesktopStore.com	www.DesktopPapers.com	Total:	\$197.17
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Order Weight
39.00

Amount Paid: \$197.17
Amount Due: \$0.00

*TRANSACTION
ID # 570*



Desktop Publishing Supplies Inc.

34 Raccio Park Road, Unit 8, Hamden, CT 06514
1-800-443-3645

www.DesktopSupplies.com | www.DesktopPapers.com

Invoice

DATE

6/12/2013

161515



Bill To:

Albert Alvarez
[Redacted]
[Redacted]

Ship To:

Albert Alvarez
[Redacted]
[Redacted]

NYCCEB 2013-07-15

Order Number	Sale Date	Ship Via	Paymethod	Terms
292296	6/12/2013	UPS	Credit	

ProductNo	Quantity	Description	Price	Discount	Extended Price
51210-250	5	Postcard, 4-up, White, 80lb, 250 Sheets	\$39.95		\$199.75
57201-1000	1	Envelope, A2, White, Square Flap, 1000 env	\$59.95		\$59.95
DISCOUNT	1		-\$25.97		-\$25.97

Subtotal: \$233.73
Sales Tax: \$0.00
Shipping: \$18.96

www.DesktopStore.com	www.DesktopPapers.com	Total:	\$252.69
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Order Weight
48.60

Amount Paid: \$252.69
Amount Due: \$0.00

Trans # 669

Exhibit V

Albert 2013

Intermediary Statements and Possible Unreported Intermediaries – Tremont Crotona Family

CCN

(see Finding #6)

**New York City Campaign Finance Board
Campaign Finance Information System
Suspected Intermediaries by Employer Name and Date Received**

Employer Name: Tremont Crotona Family CCN
Date Received: 01/11/2013

Election: 2013**Candidate:** Alvarez, Albert (ID:1684-P)**Office:** 5 (City Council)

Contributor Name	Employer Address	Date Received	Intermediary Number	Stmt/Sch/Ref	Amount Provide Your Response Here
<u>Employer Name: Tremont Crotona Family CCN</u>					
Acosta, Linda	1984 Daly Avenue	01/11/2013		6/ABC/R0000024	\$175.00
Claxton, Maribel	1984 Daly Avenue	01/11/2013		6/ABC/R0000036	\$100.00
Espinosa, Zulay	1984 Daly Ave	01/11/2013		6/ABC/R0000040	\$100.00
Suardy, Rosario	1984 Daly Ave.	01/11/2013		6/ABC/R0000042	\$100.00
<u>Employer Name: Tremont Crotona FCCN</u>					
Afonador, Raquel L	1984 Daly Ave	01/11/2013		6/ABC/R0000044	\$100.00
Total:					\$575.00

Exhibit VI

Albert 2013

Unreported Joint Expenditures – “Vote Fairness & Justice” Palm Card

(see Finding #7)

VOTE
Fairness & Justice

Mayor

William C. THOMPSON Jr.

Column 2

— FOR COMPTROLLER —
ELIOT L.
SPITZER

City Council

Albert ALVAREZ

State Assembly

Haile RIVERA

Endorsed By
Assembly Member Jose Rivera
Council Member Joel Rivera

VOTE

Tuesday, September 10

Polls Open 6am to 9pm

You may take this card into
the Polling Booth