



**New York City Campaign Finance Board**

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212.409.1800 | www.nycffb.info

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Via C-Access  
November 17, 2015

Esther Fink-Synovsky  
Cohen for Council



Dear Esther Fink-Synovsky:

Please find attached the New York City Campaign Finance Board's ("CFB" or "Board") Final Audit Report for the 2013 campaign of Andrew J. Cohen (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 May 14, 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 \$713.

The full amount owed must be paid no later than **December 17, 2015**. Please send a check in the amount of \$713, payable to the "New York City Election Campaign Finance Fund," to: New York City Campaign Finance Board, 100 Church Street, 12th Floor, New York, NY 10007.

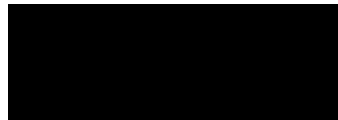
If the CFB is not in receipt of the full amount owed by **December 17, 2015**, the Candidate's name and the amount owed will be posted on the CFB's website. The CFB may also initiate a civil action to compel payment. In addition, the Candidate will not be eligible to receive public funds for any future election until the full amount is paid. Further information regarding liability for this debt can be found in the attached Final Board Determination.

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. 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](mailto:AuditMail@nyccfb.info) with any questions about the enclosed report.

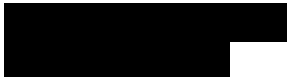
Sincerely,



Jonnathon Kline, CFE  
Director of Auditing and Accounting

signature on original

c: Andrew J. Cohen



Cohen for Council



Attachments



# **EC2013 Final Audit Report**

Cohen for Council

November 2015

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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 Andrew J. Cohen (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 file the required daily disclosure statements during the two weeks preceding the 2013 primary election (see Finding #2).
- The Campaign did not disclose payments made by a vendor to subcontractors (see Finding #3).

### ***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 #4).
- The Campaign did not provide intermediary affirmation statements for contributions received through intermediaries (see Finding #5).
- The Campaign did not provide requested documentation related to reported contributions (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 report personal contributions to non-candidate political committees made by the candidate that are attributable to the Campaign (see Finding #7).
- The Campaign made post-election expenditures that are not permissible (see Finding #8).

## 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: Andrew J. Cohen	Contribution Limit:
ID: 1627	\$2,750
Office Sought: City Council	
District: 11	Expenditure Limit:
	2010–2012: \$45,000
Committee Name: Cohen for Council	2013 Primary: \$168,000
Classification: Participant	2013 General: \$168,000
Certification Date: June 5, 2013	
	Public Funds:
Ballot Status: Primary, General	Received: \$115,500
Primary Election Date: September 10, 2013	Returned: \$18,523
General Election Date: November 5, 2013	
Party: Democratic, Working Families	Campaign Finance Summary:
	<a href="http://bit.ly/1k8BBpx">http://bit.ly/1k8BBpx</a>

## 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. In January of 2013, we requested all bank statements to date from the Campaign and reconciled the activity on the statements provided to the Campaign's reporting. We then provided the results of this preliminary bank reconciliation to the Campaign on April 19, 2013. 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.

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.

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.

## 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
Country Bank	XXXXX5430	Checking	Oct 2012 – Sep 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 reported the following transaction that does not appear on its bank statements:

NAME	CHECK NO./ TRANSACTION	STATEMENT/ SCHEDULE/ TRANSACTION	PAID DATE	AMOUNT
Mauldin, Shawn	192	12/F/R0000907	09/11/13	\$48.00

b) The Campaign did not properly report the transactions listed on Exhibit I.

c) The Campaign reported duplicate transactions as listed on Exhibit II.

## Previously Provided Recommendation

a) 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. The finding numbers and exhibit numbers, as well as the number of transactions included in the finding, may have changed from the Draft Audit Report to the Final Audit Report.

b) For inaccurately reported transactions, the Campaign must amend its disclosure statements to accurately report the transactions. The finding numbers and exhibit numbers, as well as the number of transactions included in the finding, may have changed from the Draft Audit Report to the Final Audit Report.

c) This finding was identified in the Campaign's response to the September 25, 2014 Draft Audit Report.

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.<sup>1</sup>

## Campaign's Response

a) In response to its Draft Audit Report dated September 25, 2014, the Campaign stated that it did not know why Shawn Mauldin did not cash check #192. The Campaign's November 2013 bank statement shows a copy of the front of check #232 with a note on the memo line stating that the check replaced check #192.

b) The Campaign stated that it corrected the misreported transactions. However, the misreported transactions listed in Exhibit I were not corrected.

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<sup>1</sup> If the Campaign amends its reporting with the CFB, it must also submit amendments to the New York State Board of Elections.

c) In response to its Draft Audit Report dated September 25, 2014, the Campaign reported two pair of duplicate transactions with a duplicate amount of \$48.99 listed on Exhibit II.

### 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.

## 2. Daily Pre-Election Disclosure – Statements of Contributions/Expenditures

During the 14 days preceding an election, if a candidate: (1) accepts a loan, contribution, or contributions from a single source in excess of \$1,000; or (2) makes aggregate expenditures to a single vendor 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 of the reportable transaction. *See* Rule 3-02(e). This includes additional payments of any amount to vendors who have received aggregate payments in excess of \$20,000 during the 14-day pre-election period. These contributions and expenditures must also be reported in the Campaign's next disclosure statement.

The Campaign did not file the required daily disclosures to report the following transactions:

CONTRIBUTIONS:			
NAME	STATEMENT/ SCHEDULE/ TRANSACTION	RECEIVED DATE	AMOUNT
Berkowitz Popovsky, Stacey	13/ABC/R0000962	09/04/13	\$2,500.00
United Brotherhood of Carpenters	13/ABC/R0000960	09/09/13	\$2,500.00

### Previously Provided Recommendation

If the Campaign believes it filed the required daily disclosure(s) timely, as part of its response it must submit the C-SMART disclosure statement confirmation email as proof of the submission. The Campaign may provide an explanation if it believes that its failure to file the daily disclosure(s) is not a violation, but it cannot file daily pre-election disclosures now.

### Campaign's Response

In response to its Draft Audit Report dated September 25, 2014, the Campaign stated that the contribution received dates were entered incorrectly. The Campaign submitted deposit slips and referenced the bank statements showing the contribution checks were deposited into the campaign bank account on September 23<sup>rd</sup> and 24<sup>th</sup>. In addition, the Campaign stated that it was its practice

to deposit all contributions promptly. However, the Campaign did not provide documentation showing when the contributions were received.

### **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.

### **3. 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 vendor listed below received large payments and may have subcontracted goods and services. However, the Campaign did not report subcontractors used by this vendors:

PAYEE	AMOUNT PAID
Brandford Communications	\$147,121.38

### **Previously Provided Recommendation**

This finding was mistakenly omitted from the Draft Audit Report dated September 25, 2014. As a result, the Campaign was not previously informed of this issue.

### **Campaign's Response**

In response to the Initial Documentation Request dated January 22, 2013, the Campaign submitted a Subcontractor Disclosure Form showing that Brandford Communications subcontracted \$49,644.05 in printing, mail house, and delivery services to Atlas Direct Mail, and that it subcontracted \$31,127.02 in postage at the United States Postal Office. However, the Campaign did not report the subcontractors. The Campaign did not respond to this issue because it was not previously informed of its failure to report the subcontractors.

### **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*

#### **4. 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).

Prior to the election, the Campaign accepted contributions in excess of the contribution limit in the following instance. After notification from the CFB, the Campaign refunded the amount in excess of the limit.

#### PREVIOUSLY REFUNDED CONTRIBUTIONS OVER THE LIMIT

NAME	STATEMENT/ SCHEDULE/ TRANSACTION	TRANSACTION TYPE	INCURRED/ RECEIVED/ REFUNDED DATE	AMOUNT
Dinowitz, Jeffrey	6/ABC/R0000356	Monetary Contribution	12/28/12	\$175.00
Frnds of Assembly Jeff Dinowit	6/ABC/R0000354	Monetary Contribution	12/28/12	(\$2,750.00)
Frnds of Assembly Jeff Dinowit	7/M/R0000501	Contribution Refund	03/07/13	(\$175.00)
				\$2,750.00
		Office Limit		(\$2,750.00)
		Amount Over-the-Limit		\$0.00

#### **Previously Provided Recommendation**

The Campaign previously resolved this contribution limit finding by issuing and documenting refunds, 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.

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

## Campaign's Response

The Campaign promptly refunded the contribution after notification from the CFB. In response to its Draft Audit Report dated September 25, 2014, the Campaign stated that it did not know that Friends of Assemblyman Jeffrey Dinowitz and Jeffrey Dinowitz, the individual, were the same entity for Campaign Finance Board purposes.

## Board Action

The Board found the Campaign committed an infraction, but did not assess a penalty.

## 5. Intermediary Statements

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) and (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 submit an intermediary affirmation statement for the following reported intermediaries:

INTERMEDIARY	INTERMEDIARY ID
Garodnick, Daniel	1
Hollander, Steven	2
Dickens, Inez	3
Rodriguez, Marysol	4
Klein, Jeff	5

## Previously Provided Recommendation

The Campaign must provide the required intermediary statements. For a copy of the form, see the 2013 Forms section of the CFB's website at [http://www.nycffb.info/PDF/forms/intermediary\\_statement.pdf](http://www.nycffb.info/PDF/forms/intermediary_statement.pdf).

## Campaign's Response

In response to its Draft Audit Report dated September 25, 2014, the Campaign stated it accurately reported all intermediary information, but did not provide any of the requested intermediary statements.



## Board Action

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

## 6. Contribution Documentation

Campaigns are required to provide copies of checks, bills, or other documentation to verify all transactions reported in their disclosure statements. *See* Admin. Code §§ 3-703(1)(d), (g); and Rule 4-01.

The Campaign did not provide supporting documentation for the reported transaction listed below:

NAME	TRANSACTION TYPE	STATEMENT/ SCHEDULE/ TRANSACTION	INCURRED DATE	AMOUNT
City of New York ECB	In-Kind Contribution	16/D/R0001067	12/11/13	\$2,425.00

## Previously Provided Recommendation

The Campaign must submit documentation for the transaction listed above. In addition, the Campaign must provide a written narrative explaining why the Environmental Control Board made an in-kind contribution to the Campaign. If the source of this transaction was reported in error, the Campaign must amend its disclosure statements to accurately report the name of the actual contributor and/or the nature of the transaction.

## Campaign's Response

In response to its Draft Audit Report dated September 25, 2014, the Campaign explained that the final Environmental Control Board (ECB) fine was \$2,425.00 less than the statutory maximum, which it had previously reported. However, the Campaign failed to explain why it reported the \$2,425.00 difference as an in-kind contribution from the ECB.

## 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.

## ***Expenditure Findings***

### **7. Candidate Personal Contributions**

Campaigns are required to report the candidate's personal contributions of \$99 or more to political committees that support candidates in New York City and throughout New York State (except political committees of other candidates). Such contributions are presumptively campaign expenditures, unless the candidate rebuts the presumption. *See* CFB Final Determination No. 2009-1. Such contributions are also considered contributions by the candidate to the campaign, and count toward the candidate's contribution limit.

Contributions reported to the New York State Board of Elections and the Federal Election Commission by the recipients indicate that the Candidate made contributions that the Campaign should have reported as Candidate Personal Contributions. *See* Exhibit III.

### **Previously Provided Recommendation**

If the Campaign believes that it is not required to disclose the contributions listed on Exhibit III, it must provide an explanation and supporting documentation to demonstrate that:

- The Candidate has a prior personal relationship with the recipient political committee as described in CFB Final Determination No. 2009-1.
- The Candidate has a lengthy history of contributing to the entity at a similar or greater financial level.
- The transaction was a purchase of a good or service rather than a contribution.

If the Campaign cannot provide evidence of any of the scenarios listed above, it must enter the contributions listed on Exhibit III in C-SMART as Candidate Personal Contributions and submit amendments to its disclosure statements to report the transactions.

### **Campaign's Response**

In response to its Draft Audit Report dated September 25, 2014, the Campaign stated that the October 13, 2012 contribution to Liberty Democratic Association for \$125.00 was made before the commencement of the Campaign. However, an expenditure is presumed to be made for the first election (in which the participant, limited participant or non-participant is a candidate) following the day it is made. The Campaign also stated that the July 3, 2013 contribution to the Bronx Democratic County Committee – Housekeeping for \$300.00 represents the purchase of a ticket to the County Dinner, which the Candidate regularly attended for at least a decade. However, the Campaign failed to demonstrate this history of contributing to the entity. As a result, the Campaign's response did not rebut the presumption that these Candidate Personal Contributions must be reported.

**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.

**8. 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 on Exhibit IV 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.

**Previously Provided Recommendation**

This finding was identified as a result of the Campaign's response to the Draft Audit Report dated September 25, 2014. In the Notice of Alleged Violations, the Campaign was advised that it could reduce this penalty by identifying and explaining each expenditure and providing supporting documentation.

**Campaign's Response**

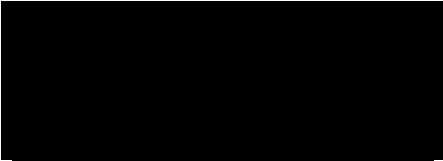
This finding was identified as a result of the Campaign's response to the Draft Audit Report dated September 25, 2014. The Campaign did not contest this violation in response to the Notice of Alleged Violations.

**Board Action**

The Board found the Campaign in violation and assessed \$213 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,



Jonnathon Kline, CFE

Director of Auditing and Accounting  
signature on original

Date: November 17, 2015

Staff: Selene Muñoz

Hormis Thaliath

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

**Candidate:** Cohen, Andrew J (ID:1627-P)**Office:** 5 (City Council)**Election:** 2013

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1. Opening cash balance (All committees)		\$0.00
2. Total itemized monetary contributions (Sch ABC)		\$107,843.00
3. Total unitemized monetary contributions		\$0.00
4. Total in-kind contributions (Sch D)		\$3,017.88
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)		\$202,792.48
Expenditure payments	\$202,792.48	
Advance repayments	\$0.00	
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)		\$0.00
13. Total loan repayments (Sch J)		\$0.00
14. Total loans forgiven (Sch K)		\$0.00
15. Total liabilities forgiven (Sch K)		\$2,425.00
16. Total expenditures refunded (Sch L)		\$334.51
17. Total receipts adjustment (Sch M - excluding CFB repayments)		\$1,550.00
18. Total outstanding liabilities (Sch N - last statement submitted)		\$0.00
Outstanding Bills	\$0.00	
Outstanding Advances	\$0.00	
19. Total advanced amount (Sch X)		\$0.00
20. Net public fund payments from CFB		\$96,977.00
Total public funds payment	\$115,500.00	
Total public funds returned	(\$18,523.00)	
21. Total Valid Matchable Claims		\$20,743.00
22. Total Invalid Matchable Claims		\$370.00
23. Total Amount of Penalties Assessed		\$713.00
24. Total Amount of Penalty Payments		\$0.00
25. Total Amount of Penalties Withheld		\$0.00

**Exhibit I**  
**Cohen for Council**  
**Misreported Transactions**  
 (see Finding #1b)

<b>Transaction ID</b>	<b>Payee</b>	<b>Account</b>	<b>Check No./ Transaction</b>	<b>Date</b>	<b>Amount</b>	<b>Correct Amount</b>	<b>Difference</b>	<b>Notes</b>
R0000501	FRNDS OF ASSEMBLY JEFF DINOWIT	1325430	078205	03/07/13	\$175.00	\$185.00	\$10.00	
R0000800	TIBBETT DINER	1325430	Debit	09/06/13	\$68.65	\$73.65	\$5.00	
R0000895	MARTELLS, JOE	1325430	188	09/11/13	\$60.00	\$96.00	\$36.00	
<b>Total</b>							<b><u>\$51.00</u></b>	

**Exhibit II**  
**Cohen for Council**  
**Duplicate Transactions**  
 (see Finding #1c)

<b>Transaction ID</b>	<b>Payee</b>	<b>Account</b>	<b>Check No./ Transaction</b>	<b>Date</b>	<b>Amount</b>	<b>Duplicate Amount</b>
R0001001	COUNTRY BANK	5430	Debit	05/29/13	\$32.66	
R0001092	CONSTANT CONTACT	5430	Debit	05/29/13		\$32.66
R0000997	COUNTRY BANK	5430	Debit	07/01/13	\$16.33	
R0001094	CONSTANT CONTACT	5430	Debit	07/01/13		\$16.33
<b>Total</b>						<b><u>\$48.99</u></b>

**Exhibit III**  
**Cohen for Council**  
**Unreported Candidate Personal Political Committee Contributions**  
 (see Finding #7)

<b>Contributor</b>	<b>Payee</b>	<b>Source</b>	<b>Date</b>	<b>Amount</b>
Andrew Cohen	Liberty Democratic Association	BOE	10/13/12	\$125.00
Andrew Cohen	Bronx Democratic County Committee - Housekeeping	BOE	07/03/13	\$300.00
<b>Total</b>				<b><u>\$425.00</u></b>



**Exhibit IV**  
**Cohen for Council**  
**Improper Post-Election Expenditures**  
**(see Finding #8)**

<b>Name</b>	<b>Statement/ Schedule/ Transaction ID</b>	<b>Purpose Code</b>	<b>Invoice Date</b>	<b>Paid Date</b>	<b>Amount</b>	<b>Notes</b>
The Postal Outlet Corp	N/A	0	01/03/14	01/03/14	\$22.75	(1)
Constant Contact	N/A	0	01/29/14	01/29/14	\$16.33	(1)
Constant Contact	N/A	0	03/03/14	03/03/14	\$16.33	(1)
Constant Contact	N/A	0	03/31/14	03/31/14	\$16.33	(1)
Constant Contact	N/A	0	04/29/14	04/29/14	\$16.33	(1)
NYC Finance Convenience Fe	N/A	0	04/30/14	04/30/14	\$17.06	(1)
NYC Payment Center Bron	N/A	0	04/30/14	04/30/14	\$684.99	(1)
Constant Contact	N/A	0	05/29/14	05/29/14	\$16.33	(1)
Constant Contact	N/A	0	06/30/14	06/30/14	\$16.33	(1)
Constant Contact	N/A	0	07/29/14	07/29/14	\$16.33	(1)
Constant Contact	N/A	0	08/29/14	08/29/14	\$16.33	(1)
<b>Total</b>					<b><u>\$855.44</u></b>	

**Notes:**

(1) These transactions appear on the January 2014 through August 2014 Country Bank statements provided by the Campaign in its Draft Audit Report response.