



**New York City Campaign Finance Board**

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Via C-Access  
July 21, 2016

Alexander Williams  
People for Carlton Berkley  
15 Debs Place, Townhouse #B  
New York, NY 10475

Dear Alexander Williams:

Please find attached the New York City Campaign Finance Board's ("CFB" or "Board") Final Audit Report for the 2013 campaign of Carlton Berkley (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 April 14, 2016 (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 \$2,865.

The full amount owed must be paid no later than **August 22, 2016**. Please send a check in the amount of \$2,865, 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 **August 22, 2016**, 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. 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](mailto:AuditMail@nyccfb.info) with any questions about the enclosed report.

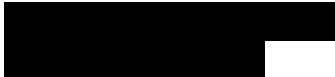
Sincerely,



Signature on original

Sauda S. Chapman  
Director of Auditing and Accounting

c: Carlton Berkley



People for Carlton Berkley  
15 Debs Place, Townhouse #B  
New York, NY 10475

Attachments



# **EC2013 Final Audit Report**

People for Carlton Berkley

July 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 Carlton Berkley (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, by the due date, a financial disclosure statement required by the Board (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 a contribution from a prohibited source (see Finding #3).
- The Campaign accepted a cash contribution greater than \$100 (see Finding #4).
- The Campaign did not disclose in-kind contributions received (see Finding #5).
- The Campaign did not report expenditures for basic campaign functions or activities, indicating that it received in-kind 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 made cash disbursements greater than \$100 and the Campaign maintained a petty cash fund greater than \$500 (see Finding #7).

*Other Findings*

- The Campaign did not respond to the Initial Documentation Request and failed to respond to the Draft Audit Report (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: Carlton Berkley	Contribution Limit:
ID: 1273	\$2,750
Office Sought: City Council	
District: 16	Expenditure Limit:
	2010–2012: N/A
Committee Name: People for Carlton Berkley	2013 Primary: \$168,000
Classification: Participant	2013 General: N/A
Certification Date: June 7, 2013	
	Public Funds:
Ballot Status: Primary	Received: \$0
Primary Election Date: September 10, 2013	Returned: N/A
Party: Democratic	
	Campaign Finance Summary:
	<a href="http://bit.ly/1k8Byde">http://bit.ly/1k8Byde</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. 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 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 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.

**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
TD Bank	XXXXXX2166	Checking	Dec 2012 – Jan 2013; Mar 2013 – Jul 2013

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 statements listed below:

BANK	ACCOUNT #	STATEMENT PERIOD
TD Bank	XXXXXX2166	Feb 2013; Aug 2013 – Present

b) The Campaign did not report the transactions listed on Exhibit Ia and Exhibit Ib that appear on its bank statements. The Campaign provided documentation for the transactions listed on Exhibit Ic, but failed to report them.

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

d) The Campaign did not properly report the transactions listed below:

NAME	CHECK NO./ TRANSACTION	STATEMENT/ SCHEDULE/ TRANSACTION	PAID DATE	REPORTED AMOUNT	ACTUAL AMOUNT	DIFFERENCE	NOTE
Andrew Freedman House	Debit	8/F/R0000190	04/04/13	\$1,100.00	\$1,108.00	\$8.00	
Petty Cash	000	8/F/R0000204	03/11/13	\$500.00	\$720.00	\$220.00	(1)

(1) See also Finding #7.

e) The Campaign must provide copies of its itemized deposit slips for deposits in February 2013 and August 2013 through present.

f) A review of the Campaign’s deposit slips revealed the following discrepancy:<sup>1</sup>

TOTAL REPORTED CASH RECEIPTS	TOTAL CASH PER DEPOSIT SLIPS	DOLLAR VARIANCE	PERCENT VARIANCE
\$6,170.00	\$7,235.00	\$1,065.00	-17.26%

Also see Finding e) above.

g) A comparison of the Campaign’s submitted bank statements with information reported in the Campaign’s disclosure statements revealed the following overall net discrepancies in reporting:<sup>2</sup>

RECEIPTS:

TOTAL REPORTED MONETARY RECEIPTS <sup>3</sup>	TOTAL CREDITS PER BANK STATEMENTS	DOLLAR VARIANCE	PERCENT VARIANCE
\$12,630.00	\$7,540.00	\$5,090.00	40.30%

<sup>1</sup> 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.

<sup>2</sup> The percentage variance is determined by subtracting the Total Per Bank Statements amount from the Total Reported amount, and then dividing by the Total Reported amount. A positive variance indicates that the Total Reported amount exceeds the Bank Statements amount. A negative variance indicates that the Total Reported amount is less than the Bank Statements amount.

<sup>3</sup> Total Reported Monetary Receipts includes monetary contributions, other receipts, public funds payments, transfers-in, loans, and expenditure refunds.

DISBURSEMENTS:

TOTAL REPORTED MONETARY DISBURSEMENTS <sup>4</sup>	TOTAL DEBITS PER BANK STATEMENTS	DOLLAR VARIANCE	PERCENT VARIANCE
\$8,852.51	\$4,544.91	\$4,307.60	48.66%

Also see Finding a) 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 statement(s) 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.
- d) For inaccurately reported transactions, the Campaign must amend its disclosure statements to accurately report the transactions.
- e) The Campaign must provide copies of the requested itemized deposit slips.
- f) 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.
- g) The Campaign must compare information reported on its financial disclosure statements to bank statements and supporting documentation for contributions and expenditures to identify and resolve the listed discrepancies. The Campaign may need to amend its disclosure statements and

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<sup>4</sup> Total Reported Monetary Disbursements includes bill payments, transfers-out, loan repayments, returns of public funds, and contribution refunds.

provide additional bank statements. The individual reporting errors and missing documentation identified in other parts of this finding are the source of some, or all, of the variances cited, and as a result, responses to other parts of this finding will likely affect the cited variances. In responding to other parts of the finding, the Campaign should evaluate whether its response also addresses the overall discrepancies noted above.

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>5</sup>

### **Campaign's Response**

a-g) The Campaign did not respond to the Draft Audit Report and the Notice of Alleged Violations and Recommended Penalties.

### **Board Action**

a) The Board found the Campaign in violation and assessed \$194 in penalties.

b -e) 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.

f) The Board found the Campaign in violation and assessed \$104 in penalties.

g) The Board found the Campaign in violation and assessed \$290 in penalties.

## **2. Failure to File and Late Filings**

Campaigns are required to file disclosure statements on scheduled dates. *See* New York City Charter §1052(a)(8), Admin. Code §§ 3-703(6) and 3-708(8); Rules 1-09(a) and 3-02.

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<sup>5</sup> If the Campaign amends its reporting with the CFB, it must also submit amendments to the New York State Board of Elections.

The Campaign failed to file the following disclosure statements by the due date:

STATEMENT #	DUE DATE	# DAYS LATE
16	01/15/14	Missing

### **Previously Provided Recommendation**

The Campaign must explain the failure to file the statement listed above. The Campaign may provide documentation regarding the lateness of, or failure to file, statements if it was not previously submitted. The Campaign must also file Disclosure Statement #16 with its response.

### **Campaign's Response**

The Campaign did not respond to the Draft Audit Report and the Notice of Alleged Violations and Recommended Penalties.

### **Board Action**

The Board found the Campaign in violation and assessed \$290 in penalties.

### *Contribution Findings*

### **3. 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 entities listed on the New York State Department of State’s website as corporations, partnerships, and/or LLCs in the following instances:

CONTRIBUTIONS FROM PROHIBITED SOURCES

NAME	STATEMENT/ SCHEDULE/ TRANSACTION	INCURRED/ RECEIVED/ REFUNDED DATE	AMOUNT	NOTE
4 CONTROL MEDIA	11/ABC/R0000564	08/11/13	\$25.00	
4 CONTROL MEDIA	N/A	09/04/13	(\$25.00)	(1)
EMDIN & RUSSELL	11/ABC/R0000562	08/20/13	\$500.00	
EMDIN & RUSSELL	N/A	08/30/13	(\$500.00)	(1)
The Copy Store	12/F/R0000584	02/15/13	\$122.69	(2)
The Copy Store	12/F/R0000586	02/15/13	\$122.00	(2)

(1) The Campaign did not provide bank statements which document that this refund was issued from the Campaign’s account. See also Finding #1b and Exhibit Ic. In addition, although the Campaign provided a copy of the certified refund check it failed to report the refund.

(2) See also Findings #1c and #5b.

**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 as well as the bank statement showing that the refund check cleared the bank, or pay the Public Fund an amount equal to the contribution.
- If a prohibited contribution results from an uncleared transaction that has been considered to be an in-kind contribution, the Campaign may provide proof of payment (such as a copy of the front and back of the cancelled expenditure check and/or the associated bank statement showing that the payment was made). If the prohibited source was not paid for the reported expenditure, the Campaign must issue a payment 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 amount of the expenditure.

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**

The Campaign did not respond to the Draft Audit Report and the Notice of Alleged Violations and Recommended Penalties.



**Board Action**

The Board found the Campaign in violation and assessed \$687 in penalties.

**4. Prohibited Contributions – Cash Contributions Greater Than \$100**

Campaigns may not accept cash contributions that total more than \$100 from a single contributor. See New York State Election Law § 14-118(2).

The Campaign reported receiving cash contributions that exceeded \$100 from the following contributor:

NAME	STATEMENT/ SCHEDULE/ TRANSACTION	RECEIVED/ REFUNDED DATE	AMOUNT	AMOUNT OVER-THE- CASH-LIMIT	NOTE
Berkley, Carlton	7/ABC/R0000022	01/17/13	\$40.00	\$0.00	(1)
Berkley, Carlton	8/ABC/R0000211	01/17/13	\$40.00	\$0.00	(2)
Berkley, Carlton	8/ABC/R0000151	04/05/13	\$60.00	\$40.00	(1)

(1) Per documentation provided by the Campaign, this is a cash contribution from Carlton Berkley, Jr.

(2) Per reporting, and absent backup documentation, this cash contribution is presumed to be from Carlton Berkley, Jr. On August 9, 2013, the Campaign contacted the CFB regarding a cash over the limit finding cited in Statement Review #8 on June 4, 2013, and was informed by CFB staff of the steps it could take to resolve this finding. The Campaign failed to submit additional documentation or amend its reporting for this transaction.

**Previously Provided Recommendation**

The Campaign must refund the portion of the contribution that exceeds \$100 to the contributor by bank or certified check and provide a copy of each refund check; or pay the Public Fund an amount equal to the overage. If the Campaign disagrees with this finding, it must provide an explanation and documentation to demonstrate why the finding is not a violation.

**Campaign’s Response**

The Campaign did not respond to the Draft Audit Report and the Notice of Alleged Violations and Recommended Penalties.

**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.

**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).*

a) The Campaign initially reported the transaction listed below as an outstanding liability. However, the Campaign did not report the liability on subsequent statements as still outstanding, nor did the Campaign report payment of the liability. Therefore, the liability listed may have been forgiven or paid by someone other than the Campaign:

NAME	STATEMENT/ SCHEDULE/ TRANSACTION	INVOICE DATE	AMOUNT
Costco	7/N/R0000096	01/18/13	\$313.00

b) The Campaign reported the following expenditures. However, the reported payments for these expenditures are not present on any of the bank statements provided by the Campaign, nor are they reported as outstanding liabilities. (See also Finding #1c.) As a result, the Campaign’s reporting and documentation indicate that a third party paid for these transactions, or that the goods or services were provided by the reported payee for free.

NAME	REPORTED CHECK NO./ TRANSACTION	STATEMENT/ SCHEDULE/ TRANSACTION	PAID DATE	AMOUNT	NOTE
Colorgraphicsrus	Debit	12/F/R0000568	03/11/13	\$225.00	
Sam’s Restaurant	Debit	12/F/R0000571	08/11/13	\$900.00	
Durant, Cedric	110	12/F/R0000574	09/03/13	\$610.00	
The Copy Store	99	12/F/R0000584	02/15/13	\$122.69	(1)
The Copy Store	98	12/F/R0000586	02/15/13	\$122.00	(1)

(1) See also Finding #3.

**Previously Provided Recommendation**

a) The Campaign must explain the status of each initially reported outstanding liability:

- For remaining outstanding liabilities, the Campaign may provide documentation showing that the debt remains an outstanding liability and that the creditor is attempting to collect the debt. Such documentation may include current invoices, collection notices, and/or letters from creditors that demonstrate a consistent and ongoing collection effort. The Campaign must also submit amendments to its disclosure statement(s) to report the outstanding liability.
- If the Campaign has paid the liability, amend each disclosure statement to correctly report the bill and the bill payment, and provide documentation for the bill and bill payment.
- If the liability has been forgiven, forgive the bill in C-SMART and amend each disclosure statement. The Campaign must also explain its initial failure to report the in-kind contribution. Any forgiven liabilities are considered in-kind contributions, which could result in other violations if the source was prohibited.

b) For each transaction, the Campaign must provide a written explanation describing how the good or service was purchased, or provided, and who paid for it. If the Campaign paid the expenditure, it 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. If the reported payee donated the goods or services, or they were purchased or donated by a third party, the Campaign must submit an in-kind contribution form completed by the contributor, and report the item as an in-kind contribution by submitting an amendment to Statement 16. (See also Finding #1c.)

## Campaign's Response

a-b) The Campaign did not respond to the Draft Audit Report and the Notice of Alleged Violations and Recommended Penalties.

## Board Action

The Board found the Campaign in violation and assessed \$78 in penalties.

## 6. Failing to Report and Document Basic Campaign Functions/Activities

In-kind contributions are goods or services provided to a campaign for free, paid for by a third party, or provided at a discount not available to others. An in-kind contribution is both a contribution and expenditure subject to both the contribution and expenditure limits. *See* Admin. Code § 3-702(8); Rules 1-02 and 1-04(g). Volunteer services are not in-kind contributions. *See* Admin. Code § 3-702(8); Rule 1-02.

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 with 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).

The Campaign did not report expenditures with the following purpose code: petitioning. Past election cycles have proven that active campaigns for elected office engage in certain basic activities, and as a result, they generally incur expenditures described using the purpose code above. The absence of such expenditures in the Campaign's reporting indicates that these goods or services may have been provided free of charge or paid for by a third party.

## Previously Provided Recommendation

The Campaign must explain why it did not incur any expenses reported with the following purpose code: petitioning.

If the Campaign reported the cost of these goods and services as part of another expenditure or with a different or incorrect purpose code, provide an explanation, including the transaction IDs for the expenditures and documentation demonstrating payment.

If goods or services used for this purpose were provided to the Campaign free of charge, amend the Campaign's disclosure statements to report the amount of each as an in-kind contribution and provide documentation to demonstrate the value of the in-kind contribution.

If volunteers provided services such as petitioning, or the Campaign performed printing itself, the Campaign must provide an explanation and supporting documentation describing who performed

the work, when it was performed, and note the transaction IDs for the purchase of any necessary supplies.

**Campaign’s Response**

The Campaign did not respond to the Draft Audit Report and the Notice of Alleged Violations and Recommended Penalties.

**Board Action**

The Board found the Campaign in violation and assessed \$194 in penalties.

*Expenditure Findings*

**7. Cash Disbursements Exceeding \$100 and Petty Cash Exceeding \$500**

Campaigns are prohibited from maintaining a petty cash fund greater than \$500. *See* Rule 4-01(e)(2). Campaigns are also prohibited from spending amounts greater than \$100 except by checks from a bank account reported to the CFB and signed by the Campaign’s authorized signatory. *See* Rule 1-08(i).

a) The Campaign made individual cash expenditures of more than \$100, as listed below:

NAME	STATEMENT/ SCHEDULE/ TRANSACTION	DATE	AMOUNT	NOTE
Petty Cash	8/F/R0000204	03/11/13	\$500.00	(1)(2)
Colorgraphicsrus	12/F/R0000568	03/11/13	\$225.00	(2)(3)

(1) On March 20, 2013, the Candidate disclosed to CFB staff that the Campaign had purchased a money order with \$500 in cash. CFB staff reminded the Candidate that cash expenditures could not exceed \$100 and that the Campaign must document all cash transactions. However, this transaction does not appear on the Campaign’s bank statements.

(2) This transaction coincides with a \$720 withdrawal on 03/11/13. (*See* also Findings #1d and #7b.)

(3) Although the Campaign reported this expenditure as a debit, the transaction does not appear on any of the Campaign’s bank statements. The Campaign must correctly report the method of payment.

b) The Campaign made a cash withdrawal listed below, which resulted in a petty cash fund exceeding the \$500 limit.

NAME	STATEMENT/ SCHEDULE/ TRANSACTION	DATE	AMOUNT	NOTE
ATM Debit	N/A	03/11/13	\$720.00	(1)

(1) This transaction was identified from the Campaign’s bank statements, but was not reported on a disclosure statement. (See also Findings #1d and #7a.)

**Previously Provided Recommendation**

a) The Campaign must explain why the transactions do not constitute a violation of the Rules and must provide supporting documentation, such as evidence that a specific expenditure was not made in cash.

b) The Campaign must explain why the transaction does not constitute a violation of the Rules and must provide supporting documentation. The Campaign must also provide a copy of its petty cash disbursement records, which may include its Petty Cash Journal from C-SMART.

**Campaign’s Response**

The Campaign did not respond to the Draft Audit Report and Notice of Alleged Violations and Recommended Penalties.

**Board Action**

The Board found the Campaign in violation and assessed \$28 in penalties.

*Other Findings*

**8. Failure to Respond Timely**

Campaigns are required to respond timely to requests from the CFB. See Admin. Code § 3-703(1)(d); Rules 1-09, 4-01.

The Campaign failed to submit, by the due date, the following:

REQUEST	DUE DATE	DATE SUBMITTED	# DAYS LATE
Initial Documentation Request	12/27/13	N/A	Missing
Draft Audit Report	04/01/15	N/A	Missing

**Previously Provided Recommendation**

For each of the CFB’s requests listed above, the Campaign may provide a written explanation for its failure to respond. The explanation must be accompanied by documentation, such as a certified mail receipt, or other relevant documentation regarding its failure to respond.

**Campaign’s Response**

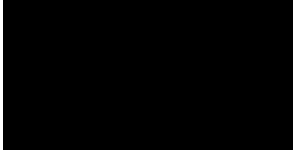
The Campaign did not respond to the failure to respond timely to the Initial Documentation Request finding. The Campaign failed to respond to the Draft Audit Report and the Notice of Alleged Violations and Recommended Penalties.

**Board Action**

The Board found the Campaign in violation and assessed \$1,000 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: July 21, 2016

Staff: Hannah Golden

Erin Burns



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

**Candidate:** Berkley, Carlton (ID:1273-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)		\$12,430.00
3. Total unitemized monetary contributions		\$0.00
4. Total in-kind contributions (Sch D)		\$0.00
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)		\$8,852.51
Expenditure payments	\$8,852.51	
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)		\$0.00
16. Total expenditures refunded (Sch L)		\$200.00
17. Total receipts adjustment (Sch M - excluding CFB repayments)		\$0.00
18. Total outstanding liabilities (Sch N - last statement submitted)		\$436.43
Outstanding Bills	\$436.43	
Outstanding Advances	\$0.00	
19. Total advanced amount (Sch X)		\$0.00
20. Net public fund payments from CFB		\$0.00
Total public funds payment	\$0.00	
Total public funds returned	\$0.00	
21. Total Valid Matchable Claims		\$6,975.00
22. Total Invalid Matchable Claims		\$3,140.00
23. Total Amount of Penalties Assessed		\$2,865.00
24. Total Amount of Penalty Payments		\$0.00
25. Total Amount of Penalties Withheld		\$0.00

**Exhibit Ia**  
**People for Carlton Berkley**  
**Unreported Transactions - Debits**  
**(see Finding #1b)**

<b>Account #</b>	<b>Name</b>	<b>Check No./ Transaction</b>	<b>Paid Date</b>	<b>Amount</b>
XXXXXX2166	Harland Clarke Check Orders	Debit	12/28/12	\$25.00
XXXXXX2166	Unknown	Debit	01/22/13	\$260.00
XXXXXX2166	TD Bank	Debit	03/29/13	\$25.00
XXXXXX2166	Stop Shop	Debit	04/03/13	\$22.68
XXXXXX2166	Prime New York	Debit	04/26/13	\$377.79
XXXXXX2166	Staples	Debit	04/29/13	\$13.60
XXXXXX2166	TD Bank	Debit	04/30/13	\$25.00
XXXXXX2166	Billmatrix	Debit	05/28/13	\$25.00
XXXXXX2166	Staples	Debit	06/03/13	\$80.12
XXXXXX2166	Staples	Debit	06/26/13	\$32.63
XXXXXX2166	Billmatrix	Debit	06/27/13	\$25.00
XXXXXX2166	Staples	Debit	07/24/13	\$61.41
XXXXXX2166	USPS	Debit	07/24/13	\$7.80
XXXXXX2166	County Clerk Bronx	Debit	07/25/13	\$210.00
XXXXXX2166	County Clerk Bronx	Debit	07/25/13	\$95.00
XXXXXX2166	Staples	Debit	07/26/13	\$6.53
XXXXXX2166	Billmatrix	Debit	07/29/13	\$25.00
<b>Total</b>				<b><u>\$1,317.56</u></b>

**Exhibit Ib**  
**People for Carlton Berkley**  
**Unreported Transactions - Credits**  
**(see Finding #1b)**

<u>Payee</u>	<u>Date</u>	<u>Amount</u>	<u>Notes</u>
BCR Signature Events LLC	01/22/13	\$50.00	(1)
<b>Total</b>		<b><u>\$50.00</u></b>	

**Notes:**

- (1) The Campaign's January 2013 bank statement indicates that the Campaign was issued a refund. The Campaign failed to report and document this transaction.

**Exhibit Ic**  
**People for Carlton Berkley**  
**Unreported Transactions - Contribution Refunds**  
**(see Finding #1b)**

<u>Payee</u>	<u>Refund Date</u>	<u>Amount</u>	<u>Notes</u>
Emdin and Russell	08/30/13	\$500.00	(1)
4 Control Media Inc.	09/04/13	\$25.00	(1)
<b>Total</b>		<b><u>\$525.00</u></b>	

**Notes:**

- (1) The Campaign provided a copy of a certified check issued to the payee listed above; however, the Campaign failed to report the contribution refund.

**Exhibit II**  
**People for Carlton Berkley**  
**Uncleared Transactions**  
(see Finding #1c)

<b>Name</b>	<b>Statement/ Schedule/ Transaction ID</b>	<b>Account</b>	<b>Invoice Date</b>	<b>Paid Date</b>	<b>Amount</b>
THE COPY STORE	12/F/R0000584	4276312166	02/15/13	02/15/13	\$122.69
THE COPY STORE	12/F/R0000586	4276312166	02/15/13	02/15/13	\$122.00
COLORGRAPHICSRUS	12/F/R0000568	4276312166	03/11/13	03/11/13	\$225.00
SAM'S RESTAURANT	12/F/R0000571	4276312166	08/11/13	08/11/13	\$900.00
PRESCOTT, MARCIA	12/F/R0000581	4276312166	08/29/13	08/29/13	\$150.00
DURANT, CEDRIC	12/F/R0000574	4276312166	09/03/13	09/03/13	\$610.00
PRESCOTT, MARCIA	12/F/R0000630	4276312166	09/05/13	09/05/13	\$90.00
PRESCOTT, MARCIA	12/F/R0000624	4276312166	09/07/13	09/07/13	\$90.00
Hines, Alvin	12/F/R0000595	4276312166	09/09/13	09/09/13	\$50.00
Barboza, Dejuan	12/F/R0000598	4276312166	09/09/13	09/09/13	\$50.00
Berkley, Mario J	12/F/R0000601	4276312166	09/09/13	09/09/13	\$50.00
PRESCOTT, MARCIA	12/F/R0000626	4276312166	09/09/13	09/09/13	\$70.00
Daniels, Dana	12/F/R0000633	4276312166	09/09/13	09/09/13	\$50.00
Moore, Wanda	12/F/R0000639	4276312166	09/09/13	09/09/13	\$40.00
Shamblee, Cynthia	12/F/R0000636	4276312166	09/09/13	09/09/13	\$60.00
Newkirk, Elaine	12/F/R0000648	4276312166	09/09/13	09/09/13	\$80.00
Petty, Alison	12/F/R0000680	4276312166	09/09/13	09/09/13	\$70.00
Altagracia, Urena	12/F/R0000592	4276312166	09/10/13	09/10/13	\$150.00
Beato, Peter	12/F/R0000588	4276312166	09/10/13	09/10/13	\$150.00
Torri, Carolyn	12/F/R0000622	4276312166	09/10/13	09/10/13	\$150.00
Shine, Tyrone	12/F/R0000610	4276312166	09/10/13	09/10/13	\$150.00
Pack, Joshua K	12/F/R0000613	4276312166	09/10/13	09/10/13	\$150.00
Boone, Reginald	12/F/R0000607	4276312166	09/10/13	09/10/13	\$150.00
Majjett, Joyce	12/F/R0000616	4276312166	09/10/13	09/10/13	\$150.00
DeJesus, Ann Marie	12/F/R0000619	4276312166	09/10/13	09/10/13	\$150.00
Rivera, Joseph	12/F/R0000604	4276312166	09/10/13	09/10/13	\$150.00

**Exhibit II**  
**People for Carlton Berkley**  
**Uncleared Transactions**  
(see Finding #1c)

<b>Name</b>	<b>Statement/ Schedule/ Transaction ID</b>	<b>Account</b>	<b>Invoice Date</b>	<b>Paid Date</b>	<b>Amount</b>
Fredericks, Michael	12/F/R0000645	4276312166	09/10/13	09/10/13	\$90.00
Williams, Homer A	12/F/R0000653	4276312166	09/10/13	09/10/13	\$80.00
sermons, mark	12/F/R0000656	4276312166	09/10/13	09/10/13	\$150.00
Shamblee, Cynthia	12/F/R0000659	4276312166	09/10/13	09/10/13	\$150.00
lewis, eric e	12/F/R0000662	4276312166	09/10/13	09/10/13	\$150.00
Carmichael, Anita	12/F/R0000665	4276312166	09/10/13	09/10/13	\$150.00
Williams, Lydell R	12/F/R0000669	4276312166	09/10/13	09/10/13	\$150.00
Middlebrooks, Edgar	12/F/R0000672	4276312166	09/10/13	09/10/13	\$150.00
Moore, Wanda	12/F/R0000675	4276312166	09/10/13	09/10/13	\$150.00
Petty, Alison	12/F/R0000678	4276312166	09/10/13	09/10/13	\$150.00
Ballentyne, Christopher	12/F/R0000642	4276312166	09/12/13	09/12/13	\$150.00
Ballentyne, Christopher	12/F/R0000650	4276312166	09/12/13	09/12/13	\$150.00
<b>Total</b>					<b><u>\$5,849.69</u></b>