



EC2013 Final Audit Report

Saffran 2013

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 Dennis Saffran (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 general election (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 did not document the fair market value of in-kind contributions received (see Finding #4).

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 #5).

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: Dennis Saffran	Contribution Limit:
ID: 436	\$2,750
Office Sought: City Council	
District: 19	Expenditure Limit:
	2010–2012: N/A
Committee Name: Saffran 2013	2013 Primary: \$168,000 ¹
Classification: Participant	2013 General: \$168,000
Certification Date: June 4, 2013	
	Public Funds:
Ballot Status: General	Received: \$92,400
Primary Election Date: N/A	Returned: \$0
General Election Date: November 5, 2013	
Party: Republican	Campaign Finance Summary:
	http://bit.ly/1rkQeX4

¹ The Candidate did not participate in a primary election; however, pursuant to Rule 1-08(c)(2)(ii), the Campaign was allowed to make expenditures subject to the primary expenditure limit.

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 25% of the dollar amount of its total contributions were in the form of credit card contributions—or had a variance between the total credit card contributions reported and the credits on its merchant account statements of more than 4%—we reconciled the transfers on the submitted merchant account statements to the deposits on the bank account 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.

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 responded, and the CFB evaluated any additional documentation provided and/or amendments to reporting made by the Campaign in response. 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. After reviewing the Campaign's response(s), CFB staff determined that the total recommended penalties for the Campaign's violations did not exceed \$500, and as a result the staff chose not to recommend enforcement action to the Board. 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.

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
JP Morgan Chase	XXXXXX4885	Checking	May 2013 – Aug 2014
Chase Paymentech	XXXXXX9265	Merchant	May 2013 – Dec 2013
American Express	XXXXXX6840	Merchant	Jul 2013 – Dec 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 statement and merchant account statements listed below:

BANK	ACCOUNT #	STATEMENT PERIOD
Rally.org	Saffran2013	Inception – Present

b) The Campaign did not report the following transactions that appear on its bank statements:

ACCOUNT #	NAME	CHECK No./ TRANSACTION	PAID DATE	AMOUNT
XXXXXX4885	NYS Tax & Finance	Debit	07/13/13	\$128.99
XXXXXX4885	IRS	Debit	10/31/13	\$367.77
XXXXXX4885	NYS Tax & Finance	Debit	11/22/13	\$141.45
Total				\$638.21

c) The Campaign reported the transactions listed below that do not appear on its bank statements:

NAME	CHECK NO./ TRANSACTION	STATEMENT/ SCHEDULE/ TRANSACTION	PAID DATE	AMOUNT
Zuniga, David	1020	9/M/R0000596	07/11/13	\$1.00
Zuniga, David	1027	10/M/R0000770	08/05/13	\$1.00
Total				\$2.00

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

e) A review of the Campaign's merchant account statements revealed the following discrepancy:²

TOTAL REPORTED CREDIT CARD RECEIPTS	TOTAL CREDIT CARD RECEIPTS PER MERCHANT ACCOUNT STATEMENTS	DOLLAR VARIANCE	PERCENT VARIANCE
\$12,778.00	\$12,039.00	\$739.00	5.78%

See also Finding a) above.

Previously Provided Recommendation

- a) The Campaign must provide all pages of all 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

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

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. Previously, the CFB directed the Campaign to enter the full gross payment (pre-tax) of all campaign workers and to enter the employer tax as a separate bill payment. Additionally the Campaign was instructed to keep a copy of the check issued to the worker, a copy of the paystub, and documentation of the additional payments to the IRS or other agencies. However, the Campaign failed to provide all of the campaign worker paystubs, check copies, and documentation of payments to other agencies. The Campaign may correct its reporting in either of two ways: (1) the Campaign can amend its disclosure statements to report the net payments to the campaign worker instead of the gross payments; or (2) the Campaign can provide all of the campaign worker paystubs, copies of checks, and documentation of payments to other agencies to confirm the current reporting is correct; and delete all of the corresponding tax payments.

e) To resolve the listed discrepancies, the Campaign must compare the credit card receipts reported in its financial disclosure statements to supporting documentation, including merchant account statements, deposit slips, bank statements, and any documentation not previously submitted. The Campaign should ensure it has disclosed all depository and merchant accounts, and provided all statements from inception through present for those accounts. 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) The Campaign did not provide merchant account statements for its Rally.org account. With its response to the Notice of Alleged Violations and Recommended Penalties, the Campaign did provide a copy of the transaction record for each contribution processed through Rally, which

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

matched the deposits from Rally.org into the Campaign's checking account. However, this is not a complete merchant account statement.

b) In response to the Draft Audit Report, the Campaign submitted a narrative explanation but failed to report the listed transactions.

c) In response to the Draft Audit Report, the Campaign submitted a narrative stating that the checks were voided but failed to amend its reporting to reflect this fact.

d) In response to the Draft Audit Report, the Campaign provided tax receipts and employee invoices for staff member David Zuniga's pay. However, the Campaign failed to follow the instructions provided in the previously provided recommendation and instead deleted all corresponding tax payments. In addition, it appears that the Campaign has still not accurately reported all transactions, because there remains a \$655.20 difference between all David Zuniga wage and tax payments reported as paid and the sum of all payments seen on documentation provided by the Campaign.

e) In its Notice of Alleged Violations and Recommended Penalties response, the Campaign provided merchant account statements that reduced its merchant account variance to 5.78%.

Board Action

a – 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.

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 course of the election cycle. 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 transactions on Exhibit II.

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 its response to the Draft Audit Report, the Campaign submitted a narrative stating that the transactions were not disclosed because of an oversight on the part of the Campaign.

In its Notice of Alleged Violations and Recommended Penalties response, the Campaign did not contest this finding.

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).

The Campaign accepted contributions in excess of the contribution limit in the following instances:

CONTRIBUTIONS OVER THE LIMIT					
NAME	STATEMENT/ SCHEDULE/ TRANSACTION	TRANSACTION TYPE	INCURRED/ RECEIVED/ REFUNDED DATE	AMOUNT	NOTE
Saffran, Dennis J	8/ABC/R0000053	Contribution	05/02/13	\$8,250.00	
Saffran, Dennis	Unreported	Candidate Personal Contribution	05/13/12	\$150.00	(1)
				\$8,400.00	
				Office Limit	(\$8,250.00)
				Amount Over-the-Limit	\$150.00

(1) See also Finding #5.

Previously Provided Recommendation

The Campaign must address each outstanding contribution limit violation:

- The Campaign must refund the over-the-limit portion of each contribution by bank or certified check and provide the CFB with copies of the refund check or pay the New York City Election Campaign Fund (the “Public Fund”) an amount equal to the amount of the overage.
- 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

In its response to the Notice of Alleged Violations and Recommended Penalties, the Campaign attempted to demonstrate that the \$150 Candidate Personal Contribution was not subject to reporting requirements and therefore should not be considered a contribution from the Candidate to the Campaign. The Campaign provided additional documentation from the National Organization for Marriage (NOM), explaining the mission of the NOM NY PAC and its role in the larger NOM organization, and further demonstrated the Candidate’s history with the larger NOM organization. However, the Campaign failed to demonstrate either a history of contributing specifically to NOM NY PAC prior to the 2013 election cycle or that the Candidate had a long-standing personal relationship with NOM NY PAC. As the Campaign has not rebutted the presumption that this is a campaign expenditure, the \$150 Candidate Personal Contribution is still

considered a contribution by the Candidate to the Campaign and therefore the Candidate continues to exceed the contribution limit by \$150. *See* Finding #5.

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.

4. 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).

The Campaign reported, but failed to adequately document, the following in-kind contribution. Due to the lack of documentation, the fair market value of the in-kind contribution could not be substantiated.

NAME	STATEMENT/ SCHEDULE/ TRANSACTION	RECEIVED DATE	AMOUNT	NOTE
John Catsimatidis for Mayor 2013	9/D/R0000610	07/11/13	\$1,275.00	(1)

(1) The Campaign provided an email from John Catsimatidis for Mayor 2013 stating that it had provided the Campaign with an in-kind contribution for petitioning valued at \$1,275.00. The email did not include any description of the specific nature of the services provided, the total cost of services, or how the portion of the costs attributable to the Campaign was calculated.

Previously Provided Recommendation

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

Campaign's Response

In its Draft Audit Report response, the Campaign provided correspondence between itself, the Catsimatidis campaign, and the CFB, regarding whether the Campaign was required to provide documentation for in-kind contributions provided by the Catsimatidis campaign in furtherance of the Campaign, as well as the methodology used by the Catsimatidis campaign to determine the value of the in-kind. However, the Campaign failed to demonstrate sufficiently the value of the in-kind contribution or explain the methodology for determining the reported amount.

In its response to the Notice of Alleged Violations and Recommended Penalties, the Campaign stated that although it accepted this in-kind contribution without obtaining documentation of its value from the vendor, it believed a penalty was disproportionate to the nature of the finding and in light of the Campaign's good faith attempts to gain more information about this in-kind contribution. The Campaign provided further email exchanges between itself and the contributor to document that the contributor refused to detail the method it used to allocate the in-kind value. As a result, the Campaign did not provide documentation to verify that the Campaign paid its proportional share.

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

5. 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. *See* also Finding #3.

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

The Campaign submitted documentation establishing a history of donations to the Queens County Republican Committee that pre-dates the 2013 election cycle. The Campaign failed to demonstrate a similar history with the National Organization for Marriage PAC New York that pre-dates the 2013 election cycle.

In its response to the Notice of Alleged Violations and Recommended Penalties, the Campaign provided letters from the National Organization for Marriage (NOM) and NOM PAC NY, explaining that it was formed to contribute to state, rather than local, campaigns. However, the Campaign failed to demonstrate a history of contributing to the NOM NY PAC prior to the 2013 election cycle. The Campaign also stated that the Candidate did not know he would run for office at the time since he had no intent of challenging the incumbent, Councilmember Dan Halloran, who terminated his candidacy on May 23, 2013. The Campaign compared this situation to the Board's Final Determination 2009-1, regarding the requirement to disclose candidate political contributions for candidates whose term limits were extended by city council legislation passed in 2008. The Final Determination is not analogous to this situation, as it concerns candidates who did not believe they would be legally able to run for office. The Candidate was legally able to run at any time but did not know whether it would be advantageous to do so. The Candidate's personal relationship with NOM's Co-Founder, as well as his contributions to it, do not have any

bearing on his contributions to NOM NY PAC; despite the relationship between them, the two are separate organizations. *See* also Finding #3.

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. *See* also Finding #3.

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 1, 2016

Staff: Hannah Golden

Christopher Cruzcosa, CFE

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

Candidate: Saffran, Dennis J (ID:436-P)**Office:** 5 (City Council)**Election:** 2013

1. Opening cash balance (All committees)		\$0.00
2. Total itemized monetary contributions (Sch ABC)		\$89,135.17
3. Total unitemized monetary contributions		\$0.00
4. Total in-kind contributions (Sch D)		\$1,445.57
5. Total unitemized in-kind contributions		\$0.00
6. Total other receipts (Sch E - excluding CFB payments)		\$449.75
7. Total unitemized other receipts		\$0.00
8. Total itemized expenditures (Sch F)		\$183,559.34
Expenditure payments	\$181,726.88	
Advance repayments	\$1,832.46	
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)		\$2,434.67
17. Total receipts adjustment (Sch M - excluding CFB repayments)		\$854.00
18. Total outstanding liabilities (Sch N - last statement submitted)		\$4,450.00
Outstanding Bills	\$4,450.00	
Outstanding Advances	\$0.00	
19. Total advanced amount (Sch X)		\$0.00
20. Net public fund payments from CFB		\$92,400.00
Total public funds payment	\$92,400.00	
Total public funds returned	\$0.00	
21. Total Valid Matchable Claims		\$26,145.00
22. Total Invalid Matchable Claims		N/A
23. Total Amount of Penalties Assessed		N/A
24. Total Amount of Penalty Payments		\$0.00
25. Total Amount of Penalties Withheld		\$0.00

Exhibit I
Saffran 2013
Misreported Transactions
(see Finding #1d)

Transaction ID	Payee	Account	Check No./ Transaction	Date	Amount	Correct Amount	Difference	Notes
R0000339	Zuniga, David	4885	1006	05/24/13	\$84.00			(1), (2)
R0000340	Zuniga, David	4885	1006	05/24/13	\$126.00			(1), (2)
R0000341	Zuniga, David	4885	1006	05/24/13	\$126.00			(1), (2)
R0000342	Zuniga, David	4885	1006	05/24/13	\$84.00			(1), (2)
R0000343	Zuniga, David	4885	1006	05/24/13	\$168.00			(1), (2)
Subtotal					\$588.00	\$532.44	-\$55.56	
R0000345	Zuniga, David	4885	1007	05/24/13	\$350.00	\$288.39	-\$61.61	(2)
R0000347	Zuniga, David	4885	1010	06/03/13	\$350.00	\$288.39	-\$61.61	(2)
R0000413	Zuniga, David	4885	1011	06/07/13	\$692.31	\$532.79	-\$159.52	(2)
R0000415	Zuniga, David	4885	Debit	06/14/13	\$692.31	\$532.79	-\$159.52	(2)
R0000417	Zuniga, David	4885	Debit	06/21/13	\$692.31	\$532.79	-\$159.52	(2)
R0000418	EFTPS	4885	Debit	06/06/13	\$72.49	\$178.55	\$106.06	(2)
R0000537	Zuniga, David	4885	Debit	06/28/13	\$692.31	\$532.79	-\$159.52	(2)
R0000567	Zuniga, David	4885	Debit	07/06/13	\$692.31	\$532.79	-\$159.52	(2)
R0000677	Zuniga, David	4885	Debit	07/12/13	\$692.31	\$532.79	-\$159.52	(2)
R0000693	EFTPS	4885	Debit	07/16/13	\$237.90	\$813.52	\$575.62	(2)
R0000715	Zuniga, David	4885	Debit	07/19/13	\$692.31	\$532.79	-\$159.52	(2)
R0000730	Zuniga, David	4885	Debit	07/26/13	\$692.31	\$532.79	-\$159.52	(2)
R0000751	Zuniga, David	4885	Debit	08/02/13	\$692.31	\$532.79	-\$159.52	(2)
R0000791	EFTPS	4885	Debit	08/15/13	\$211.84	\$734.38	\$522.54	(2)
R0000857	Zuniga, David	4885	Debit	08/19/13	\$692.31	\$373.27	-\$319.04	(2)
R0000954	Zuniga, David	4885	Debit	08/23/13	\$692.31	\$532.79	-\$159.52	(2)
R0001089	Zuniga, David	4885	Debit	08/30/13	\$692.31	\$532.79	-\$159.52	(2)
R0001104	Zuniga, David	4885	Debit	09/06/13	\$692.31	\$532.79	-\$159.52	(2)
R0001113	Zuniga, David	4885	Debit	09/16/13	\$692.31	\$532.79	-\$159.52	(2)
R0001173	Zuniga, David	4885	Debit	09/26/13	\$692.31	\$532.79	-\$159.52	(2)
R0001175	Zuniga, David	4885	Debit	09/30/13	\$692.31	\$532.79	-\$159.52	(2)
R0001179	EFTPS	4885	Debit	09/23/13	\$264.80	\$917.95	\$653.15	(2)
R0001181	EFTPS	4885	Debit	09/30/13	\$211.84	\$734.34	\$522.50	(2)
R0001339	Zuniga, David	4885	Debit	10/14/13	\$692.31	\$532.79	-\$159.52	(2)
R0001341	Zuniga, David	4885	Debit	10/14/13	\$692.31	\$532.79	-\$159.52	(2)
R0001458	EFTPS	4885	Debit	10/31/13	\$211.82	\$734.34	\$522.52	(2)

Exhibit I
Saffran 2013
Misreported Transactions
(see Finding #1d)

Transaction ID	Payee	Account	Check No./ Transaction	Date	Amount	Correct Amount	Difference	Notes
R0001467	Zuniga, David	4885	Debit	11/04/13	\$692.31	\$532.79	-\$159.52	(2)
R0001469	Zuniga, David	4885	Debit	11/04/13	\$692.31	\$532.79	-\$159.52	(2)
R0001471	Zuniga, David	4885	Debit	11/04/13	\$692.31	\$532.79	-\$159.52	(2)
R0001516	EFTPS	4885	Debit	11/15/13	\$53.00	\$183.63	\$130.63	(2)
Total					\$17,090.20	\$16,435.00	<u>-\$655.20</u>	

Notes:

- (1) The Campaign reported five transactions paid with check #1006 totaling \$588.00; however, the Campaign bank statement showed the check was for \$532.44
- (2) The Campaign reported expenditures paid to staff member David Zuniga separately from related tax withholdings. Also, documentation provided by the Campaign for both the wage payments and the tax withholdings consistently show different amounts for each transaction reported. CFB staff attempted to reconcile these differences by aggregating the amounts, in the hopes that the net effect of these misreported transactions was \$0; however, there remains a \$655.20 deficit between what was reported as paid and actual payments seen on documentation. The Campaign failed to account for this difference.

Exhibit II
Saffran 2013
Daily Pre-Election Disclosure - Expenditures
(see Finding #2)

Name	Statement/ Schedule/ Transaction ID	Incurred/ Received/ Paid Date	Amount	Notes
Westerleigh Concepts	15/F/R0001462	10/29/13	\$3,914.56	(1)
Westerleigh Concepts	15/F/R0001511	11/02/13	\$8,873.43	(1)
Westerleigh Concepts	15/F/R0001512	11/02/13	\$10,618.12	(1)
Westerleigh Concepts	16/N/R0001440	11/04/13	\$4,200.00	(1)
Westerleigh Concepts	15/F/R0001513	11/04/13	\$2,720.25	(1)
Westerleigh Concepts	16/F/R0001560	11/04/13	\$799.17	(1)
Westerleigh Concepts	16/F/R0001561	11/04/13	\$2,800.00	(1)
Total			<u>\$33,925.53</u>	

Notes:

- (1) The expenditures from this single source exceed \$20,000 in aggregate.

Exhibit III
Saffran 2013
Unreported Candidate Political Committee Contributions
(see Finding #5)

Payee	Source	Date	Amount
NOM PAC NY (NATIONAL ORGANIZATION FOR MARRIAGE PAC NEW YORK)	BOE	05/13/12	\$150.00
Total			<u>\$150.00</u>