



**New York City Campaign Finance Board**

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Via C-Access  
October 7, 2016

Junior A. Theodore  
King 2013  
9710 Flatlands Avenue  
Brooklyn, NY 11236

Dear Junior A. Theodore:

Please find attached the New York City Campaign Finance Board's ("CFB" or "Board") Final Audit Report for the 2013 campaign of Erlene J. King (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").

The Campaign received a post-election public funds payment of \$12,093, which reflects \$2,907 in penalties assessed and withheld, as detailed in the attached Final Board Determination.

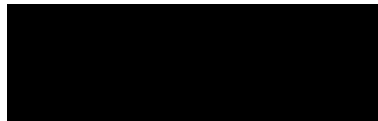
By June 13, 2016, the Campaign was required to demonstrate to the CFB that the public funds were used to pay specific outstanding liabilities. The Campaign received a notice that listed the specific outstanding liabilities for which the public funds may be used and explained how to document proper use. The Campaign fulfilled its requirement to document the payment of outstanding liabilities in accordance with Rule 5-01(o).

The Campaign may challenge a public funds determination in a petition for Board reconsideration within thirty days of the date of the Final Audit Report as set forth in Board Rule 5-02(a). However, the Board will not consider the petition unless the Campaign submits new information and/or documentation and shows good cause for its previous failure to provide this information or documentation. To submit a petition, please call the Legal Unit at 212-409-1800.

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,



Sauda S. Chapman  
Director of Auditing and Accounting

c: Erlene J. King



King 2013  
9710 Flatlands Avenue  
Brooklyn, NY 11236

Attachments



# **EC2013 Final Audit Report**

King 2013

October 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 Erlene J. King (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 disclose all of its accounts on the Certification (see Finding #1).
- The Campaign did not report or inaccurately reported financial transactions to the Board (see Finding #2).
- The Campaign did not file, by the due date, a financial disclosure statement required by the Board (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 did not disclose 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 made cash disbursements greater than \$100 (see Finding #5).
- The Campaign made expenditures that were not in furtherance of the Campaign (see Finding #6).

***Public Matching Funds Findings***

The CFB matches contributions from individual New York City residents at a \$6-to-\$1 rate, up to \$1,050 per contributor. The CFB performs reviews to ensure that the correct amount of public funds was received by the Campaign and that public funds were spent in accordance with the Act and Rules. Findings in this section relate to whether any additional public funds are due, or any return of public funds by the Campaign is necessary.

- The Campaign may be eligible for a post-election public funds payment (see Finding #7).

***Other Findings***

- The Campaign did not respond timely to the Initial Documentation Request and 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: Erlene J. King	Contribution Limit:
ID: 716	\$2,750
Office Sought: City Council	
District: 45	Expenditure Limit:
	2010–2012: N/A
Committee Name: King 2013	2013 Primary: N/A
Classification: Participant	2013 General: \$168,000
Certification Date: June 10, 2013	
	Public Funds:
Ballot Status: General	Received: \$55,353
General Election Date: November 5, 2013	Returned: \$0
Party: Rent is 2 Damn High	
	Campaign Finance Summary:
	<a href="http://bit.ly/1yS1k8H">http://bit.ly/1yS1k8H</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. 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 obligation to repay public funds, 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 was eligible for a post-election public funds payment and committed violations subject to penalty. The Campaign chose to contest the CFB staff recommendations. The Campaign appeared before the Board on April 14, 2016. 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. Bank Accounts – Identifying Information**

Campaigns are required to report all bank, depository, and merchant accounts used for campaign purposes on their Certification. *See* Admin. Code § 3-703(1)(c); Rules 1-11(d), 2-01(a) and 2-06(a).

The bank statements provided by the Campaign revealed that information concerning a Bank of America merchant account (account number unknown),<sup>1</sup> was not reported to the CFB as part of the candidate's Certification.

#### **Previously Provided Recommendation**

The Campaign must explain why it failed to disclose the merchant account listed above and amend its Certification using a Change of Bank Account Form to include all missing account information. The form can be downloaded at [http://www.nyccfb.info/PDF/forms/change\\_of\\_bank\\_account.pdf](http://www.nyccfb.info/PDF/forms/change_of_bank_account.pdf).

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

The Campaign responded to the Draft Audit Report and stated, "The attached document was overlooked by the treasurer," but did not include the referenced document. However, in its response to the Draft Audit Report and the Notice of Alleged Violations and Recommended Penalties, the Campaign failed to amend its Certification to disclose this merchant account.

#### **Board Action**

The Board found the Campaign in violation and assessed \$250 in penalties.

#### **2. 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

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<sup>1</sup> The Campaign disclosed a Bank of America account ending in 1596 as its merchant account. However, the account statements submitted by the Campaign indicate the account is a checking account. In addition, the statements show "Bank of America Des: Fee" and "Bank of America Des: Interchng" fees, which indicate that there is a separate Bank of America merchant account. *See* also Finding #2a.

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	NOTES
Bank of America	XXXXXXXX1596	Checking	Jun 2013 – Mar 2014	(1)
Bank of America	XXXXXXXX1473	Checking	Jul 2013 – Mar 2014	
Cybersource	XXXXXXXX0404	Merchant	Jul 2013 – Nov 2013	

(1) The Campaign disclosed this account as its merchant account. However, the statements indicate that this account is a checking account ("Your Business Advantage Chk"). In addition, the July 2013 statement shows a \$100.00 ATM deposit, which is not typical of a merchant account.

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
Cybersource	XXXXXXXXXXXX0404	Dec 2013 – Present
Bank of America (Merchant)	Unknown	Inception – Present

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

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

d) The Campaign did not provide copies of the itemized deposit slips listed on Exhibit III.

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

TOTAL REPORTED CASH RECEIPTS	TOTAL CASH PER DEPOSIT SLIPS	DOLLAR VARIANCE	PERCENT VARIANCE
\$4,435.00	\$7,285.00	(\$2,850.00)	-64.26%

Also see Finding d) above.

f) A review of the Campaign's merchant account statements revealed the following discrepancy:<sup>3</sup>

TOTAL REPORTED CREDIT CARD RECEIPTS	TOTAL CREDIT CARD RECEIPTS PER STATEMENTS	DOLLAR VARIANCE	PERCENT VARIANCE
\$1,720.00	\$695.00	\$1,025.00	59.59%

Also see Finding a) 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>4</sup>

RECEIPTS:

TOTAL REPORTED MONETARY RECEIPTS <sup>5</sup>	TOTAL CREDITS PER BANK STATEMENTS	DOLLAR VARIANCE	PERCENT VARIANCE
\$54,190.00	\$57,799.04	(\$3,609.04)	-6.66%

<sup>2</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>3</sup> 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.

<sup>4</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>5</sup> Total Reported Monetary Receipts includes monetary contributions, other receipts, public funds payments, transfers-in, loans, and expenditure refunds.

### **Previously Provided Recommendation**

- a) The Campaign must provide all pages of the requested bank statements.
- b) The Campaign must amend its disclosure statements to report these transactions. The Campaign must also provide documentation for each transaction. Because bank statements provide limited information about a transaction, the Campaign should review invoices or other records to obtain all of the information necessary to properly report the transaction.
- c) For each transaction reported in the Campaign's disclosure statements that does not appear on the Campaign's bank statements, the Campaign must provide evidence to show that the transaction cleared the bank (i.e., a copy of the front and back of the check, and the bank statement showing the payment). Alternatively, the Campaign may provide evidence that the transaction was reported in error, or amend the Campaign's disclosure statement to void the check. For each voided check, the Campaign must either issue a replacement check or forgive the expenditure payment. Any forgiven liabilities will be considered in-kind contributions, which could result in contribution limit violations, or be considered contributions from a prohibited source. The Campaign may need to contact the payee to determine why the transaction did not clear.
- d) The Campaign must provide copies of the requested itemized deposit slips.
- e) To resolve the listed discrepancies, the Campaign must compare the cash receipts reported in its financial disclosure statements to supporting documentation, including deposit slips, bank statements, and any documentation not previously submitted. The Campaign should also review documentation to ensure that it correctly characterized the instrument type (i.e., Cash, Credit Card, Check, etc.) of each receipt it reported. The Campaign may need to amend its disclosure statements as a result.
- f) 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.
- 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 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>6</sup>

### **Campaign's Response**

- a) In response to the Draft Audit Report and Notice of Alleged Violations and Recommended Penalties, the Campaign failed to provide statements for the Bank of America merchant account (account number unknown) from inception to present and the CyberSource merchant statements from December 2013 to the present.
- b) In response to the Draft Audit Report, the Campaign failed to report all unreported transactions.
- c) In response to the Draft Audit Report, the Campaign stated, "Exhibit #2 have [sic] been rectified by C-SMART amendments." However, the Campaign did not amend its disclosure statements or explain why the reported expenditure payments were not actually disbursed from its bank account(s).
- d) In response to the Draft Audit Report, the Campaign failed to provide three deposit slips.
- e) The Campaign provided some deposit slips with its Draft Audit Report response and due to a deposit slip showing additional cash deposits, the Campaign's cash variance was identified as 64.26%. In response to the Notice of Alleged Violations and Recommended Penalties, the Campaign provided a deposit slip that it previously submitted with its Draft Audit Report response, which indicated that the Campaign deposited \$3,180 in cash into its checking account ending in 1473 on November 5, 2015. In addition, the Campaign stated that it "clawed back" \$3,180 from check #1024. However, the November 2013 bank statement shows that check #1024 was cashed for \$4,000, the payable amount. Because the Campaign did not amend its disclosure statements to account for the deposit and did not provide documentation demonstrating the source of the \$3,180 deposit, it did not address the reporting variance.

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<sup>6</sup> If the Campaign amends its reporting with the CFB, it must also submit amendments to the New York State Board of Elections.



f) In response to the Draft Audit Report, the Campaign stated, “C-SMART amendments were made to rectify a majority of the discrepancies.” However, amendments made to the disclosure statements did not result in a lower merchant account variance. The Campaign did not account for all of its credit card contributions on the merchant account statements that it provided.

g) In response to the Draft Audit Report, the Campaign provided additional bank statements that increased the Campaign’s credit variance to -6.66%. In response to the Notice of Alleged Violations and Recommended Penalties, the Campaign provided a deposit slip that it previously submitted with its Draft Audit Report response. The deposit slip indicated that the Campaign deposited \$3,180 in cash into checking account ending in 1473 on November 5, 2015. In addition, the Campaign stated that it “clawed back” \$3,180 from check #1024. However, the November 2013 bank statement shows that check #1024 was cashed for \$4,000, the amount payable. Because the Campaign did not amend its disclosure statements to account for the deposit and did not provide documentation demonstrating the source of the \$3,180 deposit, it did not address the receipt variance.

### **Board Action**

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

b – d) The Board has taken no further action on this matter other than to make this a part of the Candidate’s record with the Board.

e) The Board found the Campaign in violation and assessed \$712 in penalties.

f) 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.

g) The Board found the Campaign in violation and assessed \$250 in penalties.

### **3. 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), 3-708(8); Rules 1-09(a), 3-02.

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

STATEMENT #	DUE DATE	DATE FILED	# DAYS LATE
16	01/15/14	01/16/14	1

## Previously Provided Recommendation

The Campaign may explain the lateness of the statement listed above. The Campaign may also provide documentation to support its explanation.

## Campaign's Response

In response to the Draft Audit Report, the Campaign submitted a notarized statement asserting that it submitted Statement 16 one day late because the Campaign Manager was medically incapacitated. However, the Campaign did not explain why the Candidate, Treasurer, or other Campaign staff was unable to file Statement 16 on time. In response to the Notice of Alleged Violations and Recommended Penalties, the Campaign did not contest this violation. However, it stated that it was logistically impossible to deliver the disclosure statement to the CFB on time because the Candidate was unable to obtain the package from the Campaign Manager's home after he returned from the hospital.

## Board Action

The Board found the Campaign in violation and assessed \$50 in penalties.

## *Contribution Findings*

### **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 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 #2c.) 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	NOTES
Clearview Flatbush	Cash	15/F/R0000622	11/05/13	\$40.00	(1)
Dunkin Donuts	Cash	15/F/R0000619	11/05/13	\$87.00	(1)
<b>Total</b>				<b>\$127.00</b>	

(1) See also Finding #2c.

### Previously Provided Recommendation

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 #2c.)

### Campaign's Response

The Campaign did not respond to this finding in its response to the Draft Audit Report.

### 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. Cash Disbursements Exceeding \$100**

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).

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

NAME	STATEMENT/ SCHEDULE/ TRANSACTION	DATE	AMOUNT	NOTES
Big Daddy	N/A	06/26/13	\$150.00	(1)

(1) At the CFB field visit on October 7, 2013, the Campaign provided its Petty Cash Journal, which indicates that the Campaign made this expenditure in cash.

### **Previously Provided Recommendation**

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

### **Campaign's Response**

In response to the Draft Audit Report, the Campaign stated that this transaction was for a reasonably priced air conditioner, but the storeowner refused to take a check. The Campaign did not dispute that it made a cash expenditure greater than \$100. In response to the Notice of Alleged Violations and Recommended Penalties, the Campaign did not contest this violation.

### **Board Action**

The Board found the Campaign in violation and assessed \$50 in penalties.

### **6. Expenditures – Not In Furtherance of the Campaign**

Campaigns may only spend campaign funds for items that further the candidate's election. Campaigns must keep detailed records to demonstrate that campaign funds were used only for those purposes. *See* Admin. Code §§ 3-703(1)(d), (g); Rule 4-01. The law gives examples of the

types of expenditures that are presumed to be campaign-related, although in certain circumstances expenditures of the types listed as appropriate may be questioned. Among the relevant factors are: the quality of the documentation submitted; the timing and necessity of the expenditure; the amount of the expenditure and/or all expenditures of a specific type in relation to the Campaign's total expenditures; and whether the expenditure is duplicative of other spending. The law also prohibits the conversion of campaign funds to personal use which is unrelated to a political campaign, and provides examples of expenditures that are not in furtherance of a campaign. *See* New York State Election Law §14-130; Admin. Code §§ 3-702(21), 3-703, and 3-710(2)(c); Rules 1-03(a), and 5-03(e), and Advisory Opinion No. 2007-3 (March 7, 2007). Expenditures not demonstrated to be in furtherance of the candidate's election are considered "non-campaign related."

a) The Campaign reported the expenditures listed on Exhibit IV which—based on the reporting and/or documentation—are non-campaign related.

b) The Campaign reported the expenditures listed on Exhibit V which—based on the reporting and/or documentation—are non-campaign related.

### **Previously Provided Recommendation**

The Campaign must explain how each expenditure listed is in furtherance of the Campaign, and provide supporting documentation. The explanation and documentation may include details of how, when, where, and by whom a good was used. For services, the documentation and explanation may include work product and/or additional details regarding how, when, and where the service was provided; and how the service was necessary in light of nature of other transactions reported by the Campaign. The Campaign must review the questioned transactions. Expenditures that are not in furtherance of the Campaign may increase the amount of public funds that must be repaid.

### **Campaign's Response**

a) In response to the Draft Audit Report, the Campaign provided the original consultant contract for Sean Grant, a rider to the consultant contract, and a travel log. However, the travel log does not appear to be contemporaneous because the log describes trips for "campaigning" that occur after Election Day. In response to the Notice of Alleged Violations and Recommended Penalties, the Campaign provided a sworn statement from Mr. Grant (Driver) describing his duties, how he maintained records and how his records were maintained by the Campaign. The Campaign also submitted a letter from the Campaign Manager, Eustace Inglis, who attested to using the car service on a regular basis to travel from and to home, the campaign office, and campaign meetings. The Campaign Manager also stated that the driver closely followed the Candidate's schedule. The Candidate stated that Mr. Grant followed her schedule; she provided a copy of her schedule from June 16, 2013 to November 9, 2013. However, the Candidate also stated that because the driver was on a fixed salary, the driver took her to all her appointments, including personal appointments. Based on the analysis performed from the documentation provided and

narrative explanation, only a portion of the trips from the travel log were substantiated and are deemed in furtherance of the Campaign. The Campaign failed to substantiate many of the trips in the travel log with details such as names of passengers, events travelled to, the timing and extent of the car service utilized, and trips logged after Election Day. However, although the Candidate used the driver for some personal trips that were not in furtherance of the Campaign, the use did not create additional expenditures for the Campaign.

b) The Campaign asserted that it wrote the Election Day check to Mr. Roberts in error (Transaction ID 16/F/R0000751 for \$4,000) and that it demanded the money back from Mr. Roberts. The Campaign also asserted that it received a portion of the money back and that it deposited the funds into the Campaign's bank account. The Campaign provided a copy of the deposit slip showing a \$3,180 deposit on November 5, 2013, \$820 less than originally paid. Further, the Campaign stated that Mr. Roberts "explained that he had paid \$20 cash to 36 workers totaling \$720 to cover 2 meals on Election Day and receipts totaling \$100." However, the Campaign did not provide documentation to substantiate the meal stipends totaling \$720.

### **Board Action**

- a) The Board found the Campaign in violation, but did not assess a penalty.
- b) The Board found the Campaign in violation and assessed \$180 in penalties.

### ***Public Matching Funds Findings***

## **7. Potential Post-Election Public Funds Payment**

Upon the satisfactory resolution of all issues in this Draft Audit Report, campaigns may qualify for a payment of public funds to pay remaining outstanding liabilities. The payment, if any, will occur only when the CFB issues the final audit report. *See* Rule 5-01(m). Campaigns will then have 60 days after receipt of the final public funds payment to demonstrate that the public funds were properly used to pay reported and documented outstanding liabilities. *See* Rule 5-01(o).

The Detail Payment Report (included in the Draft Audit Report) shows the amount of public funds the Campaign may be eligible to receive. This amount may be adjusted up or down, based on the Campaign's response to this Draft Audit Report and the amount of funds remaining in the Campaign's bank account. Post-election payments are limited to the lesser of the following: unpaid valid claims times the matching factor, documented qualified expenditures in excess of the funds already received, or outstanding liabilities reported in the January 15, 2014 filing with the CFB and documented as still outstanding.

## **Previously Provided Recommendation**

To be eligible for a post-election payment, the Campaign must respond on time to the Draft Audit Report and resolve any compliance issues. In addition, the Campaign must provide documentation demonstrating that the outstanding liabilities reported in its January 15, 2014 disclosure statement are still outstanding. This documentation must show an ongoing attempt by the creditor or vendor to collect the outstanding amount and may include invoices, late notices, or other correspondence. Return a copy of the exhibit with the documentation and indicate which items have already been paid or forgiven. Outstanding liabilities listed on the Exhibit are the only liabilities that may be considered for the purpose of a post-election public funds payment.

The Invalid Matching Claims Report (included in the Draft Audit Report) gives the details of each contribution considered invalid. The left side of the report shows the data reported by the Campaign for each matching claim and the codes that describe why the claim is invalid. The right side provides space for the Campaign's written response and a check box that describes the action the Campaign is taking to address the invalid claim. Return this report with the response to this Draft Audit Report. To supply additional or modified data, correct the appropriate transaction(s) in C-SMART and amend the appropriate disclosure statements. For transactions with more than one invalid code, the Campaign must address all the codes before the CFB will validate the claim. No public funds will be disbursed on invalid claims.

## **Campaign's Response**

In response to the Draft Audit Report, the Campaign did not respond to this finding. In response to the Notice of Alleged Violations and Recommended Penalties, the Campaign provided documentation and explanations as requested. The Campaign documented outstanding liabilities as still outstanding by demonstrating that vendors and creditors are still attempting to collect outstanding liabilities for \$32,930 in reported outstanding liabilities.

## **Board Action**

The Campaign received a Post-Election Public Funds Payment of \$12,093 (which reflects \$2,907 in penalties assessed and withheld) on April 14, 2016.

## ***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	# DAYS
Initial Documentation Request	03/24/14	04/14/14	22
Draft Audit Report	12/03/14	12/04/14	1

### **Previously Provided Recommendation**

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

### **Campaign's Response**

In its response to the Draft Audit Report, the Campaign did not address its late response to the Initial Documentation Request. In its response to the Notice of Alleged Violations and Recommended Penalties, the Campaign did not contest this violation, though it noted that it had worked tirelessly to address these issues.

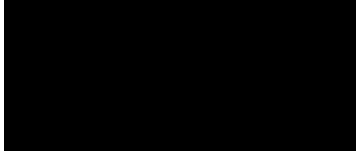
### **Board Action**

The Board found the Campaign in violation and assessed \$915 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,



Sauda S. Chapman

Director of Auditing and Accounting

Date: October 7, 2016

Staff: Selene Muñoz

Hormis Thaliath

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

**Candidate:** King, Erlene J (ID:716-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)		\$10,930.00
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)		\$57,421.61
Expenditure payments	\$57,421.61	
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)		\$0.00
17. Total receipts adjustment (Sch M - excluding CFB repayments)		\$0.00
18. Total outstanding liabilities (Sch N - last statement submitted)		\$56,899.00
Outstanding Bills	\$56,774.00	
Outstanding Advances	\$125.00	
19. Total advanced amount (Sch X)		\$0.00
20. Net public fund payments from CFB		\$55,353.00
Total public funds payment	\$55,353.00	
Total public funds returned	\$0.00	
21. Total Valid Matchable Claims		\$9,710.00
22. Total Invalid Matchable Claims		\$480.00
23. Total Amount of Penalties Assessed		\$2,907.00
24. Total Amount of Penalty Payments		\$0.00
25. Total Amount of Penalties Withheld		\$2,907.00

**Exhibit I  
King 2013  
Unreported Transactions  
(see Finding #2b)**

Debits

<b>Account Number</b>	<b>Payee</b>	<b>Check No./ Transaction</b>	<b>Date</b>	<b>Amount</b>	<b>Notes</b>
1473	Delroy Wright	1025	11/04/13	\$850.00	
1473	Mailigenlim	Debit	11/05/13	\$40.00	
1473	Mailigenlim	Debit	11/05/13	\$1.20	
1473	Bartington Rodney	1028	11/06/13	\$166.00	
1473	Sordiki Gore	1051	11/06/13	\$120.00	
<b>Total</b>				<b><u>\$1,177.20</u></b>	

Credits

<b>Account Number</b>	<b>Payee</b>	<b>Check No./ Transaction</b>	<b>Date</b>	<b>Amount</b>	<b>Notes</b>
1473	King 2013	Credit	11/05/13	\$3,180.00	(1)
<b>Total</b>				<b><u>\$3,180.00</u></b>	

**Notes:**

(1) See also Finding #6 and Exhibit V.

**Exhibit II**  
**King 2013**  
**Uncleared Transactions**  
 (see Finding #2c)

<b>Transaction ID</b>	<b>Payee</b>	<b>Account</b>	<b>Check No./ Transaction</b>	<b>Date</b>	<b>Amount</b>	<b>Notes</b>
R0000609	Cambridge, Mulisha	1473	cash	11/04/13	\$40.00	
R0000611	Cambridge, Akim	1473	cash	11/04/13	\$40.00	
R0000613	Lacon, Melissa	1473	Cash	11/04/13	\$40.00	
R0000616	Wyre, Mesve	1473	Cash	11/04/13	\$40.00	
R0000619	Dunkin Donuts	1473	Cash	11/05/13	\$87.00	(1)
R0000622	Clearview Flatbush	1473	Cash	11/05/13	\$40.00	(1)
<b>Total</b>					<b><u>\$287.00</u></b>	

**Notes:**

(1) See also Finding #4.

**Exhibit III**  
**King 2013**  
**Missing Deposit Slips**  
**(see Finding #2d)**

<b>Bank</b>	<b>Account</b>	<b>Date</b>	<b>Total Amount</b>	<b>Status</b>
Bank of America	1473	06/10/13	\$25.00	Missing
Bank of America	1596	07/03/13	\$100.00	Missing
Bank of America	1596	07/05/13	\$350.00	Missing

**Exhibit IV**  
**King 2013**  
**Non-Campaign Related Expenditures**  
(see Finding #6a)

Name	Statement/ Schedule/ Transaction ID	Purpose Code	Invoice Date	Paid Date	Amount	Notes
Grant, Sean	10/F/R0000157	OTHER	07/15/13	07/12/13	\$600.00	(1)
Grant, Sean	14/F/R0000524	OTHER	07/15/13	09/12/13	\$600.00	
Grant, Sean	15/F/R0000688	OTHER	08/15/13	11/07/13	\$200.00	
Grant, Sean	15/F/R0000689	CONSL	09/15/13	11/07/13	\$1,266.74	(2)
Grant, Sean	15/F/R0000690	OTHER	10/15/13	11/07/13	\$1,200.00	(3)
Grant, Sean	16/N/R0000779	CONSL	11/15/13	N/A	\$1,400.00	(4)
<b>Total</b>					<b><u>\$5,266.74</u></b>	

**Notes:**

- (1) The Campaign reported this expenditure to Sean Grant as Transaction ID 10/F/R0000157 for \$1,400.00, however, \$600.00 of the expenditure is considered non-campaign related.
- (2) The Campaign reported this expenditure to Sean Grant as Transaction ID 15/F/R0000689 for \$2,000.00, however, \$1,266.74 of the expenditure is considered non-campaign related.
- (3) The Campaign reported this expenditure to Sean Grant as Transaction ID 15/F/R0000690 for \$2,000.00, however, \$1,200.00 of the expenditure is considered non-campaign related.
- (4) The Campaign reported this expenditure to Sean Grant as Transaction ID 15/F/R0000779 for \$2,000.00, however, \$1,200.00 of the expenditure is considered non-campaign related.

**Exhibit V**  
**King 2013**  
**Non-Campaign Related Expenditures**  
(see Finding #6b)

<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>
Roberts, Michael	16/F/R0000751	CONSL	11/04/13	11/04/13	\$720.00	(1)
<b>Total</b>					<b><u>\$720.00</u></b>	

**Notes:**

(1) The Campaign reported this expenditure to Michael Roberts as Transaction ID 15/F/R0000751 for \$4,000.00, however, \$720.00 of the expenditure is considered non-campaign related.