



New York City Campaign Finance Board

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Via C-Access
May 23, 2016

Paul Susana
Cabrera for City Council



Dear Paul Susana:

Please find attached the New York City Campaign Finance Board's ("CFB" or "Board") Final Audit Report for the 2013 campaign of Fernando Cabrera (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 September 24, 2015 (attached). The report concludes that the Campaign did not fully demonstrate compliance with the requirements of the Campaign Finance Act (the "Act") and Board Rules (the "Rules").

As detailed in the attached Final Board Determination, the Campaign was assessed penalties totaling \$966. The Campaign previously paid this amount.

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@nycffb.info with any questions about the enclosed report.

Sincerely,



Signature on original

Sauda S. Chapman
Director of Auditing and Accounting

c: Fernando Cabrera



Cabrera for City Council



Attachments



EC2013 Final Audit Report

Cabrera for City Council

May 2016

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RESULTS IN BRIEF

The results of the New York City Campaign Finance Board's ("CFB" or "Board") review of the reporting and documentation of the 2013 campaign of Fernando Cabrera (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).

Contribution Findings

All campaigns are required to abide by contribution limits and adhere to the ban on contributions from prohibited sources. Further, campaigns are required to properly disclose and document all contributions. Findings in this section relate to the Campaign's failure to comply with the requirements for contributions under the Act and Rules.

- The Campaign accepted a contribution from a prohibited source (see Finding #2).
- The Campaign did not document the fair market value of in-kind contributions received and did not disclose in-kind contributions received (see Finding #3).

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 #4).
- The Campaign did not properly report and/or document its joint expenditures (see Finding #5).
- The Campaign made expenditures that were not in furtherance of the Campaign (see Finding #6).

- The Campaign did not provide requested documentation related to reported expenditures (see Finding #7).
- The Campaign made post-election expenditures that are not permissible (see Finding #8).

BACKGROUND

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

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

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

The table below provides detailed information about the Campaign:

Name: Fernando Cabrera	Contribution Limit:
ID: 1256	\$2,750
Office Sought: City Council	
District: 14	Expenditure Limit:
	2010–2012: \$45,000
Committee Name: Cabrera for City Council	2013 Primary: \$168,000
Classification: Participant	2013 General: \$168,000
Certification Date: May 16, 2013	
	Public Funds:
Ballot Status: Primary, General	Received: \$23,100
Primary Election Date: September 10, 2013	Returned: \$23,100
General Election Date: November 5, 2013	
Party: Democratic, Working Families	Campaign Finance Summary:
	http://bit.ly/1k8BD0r

SCOPE AND METHODOLOGY

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

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

Prior to the election, we performed preliminary reviews of the Campaign's compliance with the Act and Rules. We evaluated the eligibility of each contribution for which the Campaign claimed matching funds, based on the Campaign's reporting and supporting documentation. We also determined the Candidate's eligibility for public funds by ensuring the Candidate was on the ballot for an election, was opposed by another candidate on the ballot, and met the two-part threshold for receiving public funds. In January of 2013, we requested all bank statements to date from the Campaign and reconciled the activity on the statements provided to the Campaign's reporting. We then provided the results of this preliminary bank reconciliation to the Campaign on April 19, 2013. After the election, we performed an audit of all financial disclosure statements submitted for the election (see summary of activity reported in these statements at Appendix #1).

To verify that the Campaign accurately reported and documented all financial transactions, we requested all of the Campaign's bank statements and reconciled the financial activity on the bank statements to the financial activity reported on the Campaign's disclosure statements. We identified unreported, misreported, and duplicate disbursements, as well as reported disbursements that did not appear on the Campaign's bank statements. We also calculated debit and credit variances by comparing the total reported debits and credits to the total debits and credits amounts appearing on the bank statements.

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

To determine if the Campaign adhered to contribution limits and prohibitions, we conducted a comprehensive review of the financial transactions reported in the Campaign's disclosure

statements. Based on the Campaign's reported contributions, we assessed the total amount contributed by any one source and determined if it exceeded the applicable limit. We also determined if any of the contribution sources were prohibited. We reviewed literature and other documentation to determine if the Campaign accounted for joint activity with other campaigns.

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

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

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

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

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

Following an election, campaigns may only make limited winding up expenditures and are not going concerns. Because the activity occurring after the post-election audit is extremely limited, the audit focused on substantive testing of the entire universe of past transactions. The results of the substantive testing served to establish the existence and efficacy of internal controls. The CFB

also publishes and provides to all campaigns guidance regarding best practices for internal controls.

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

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. CFB staff recommended that the Board find that the Campaign committed violations subject to penalty. The Campaign chose not to contest the CFB staff recommendations. The Board's actions are summarized as a part of each Finding in the Audit Results section. The finding numbers and exhibit numbers, as well as the number of transactions included in the findings, may have changed from the Draft Audit Report to the Final Audit Report.

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
HSBC	XXXXX6972	Checking	Sep 2010 – Dec 2013
JPMorgan Chase Bank	XXXXX1618	Checking	Dec 2013 – Nov 2014

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

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

ACCOUNT #	NAME	CHECK NO.	PAID DATE	AMOUNT
XXXXX6972	JFA Food Corp	101594405	01/14/12	\$200.00
XXXXX6972	60 W 183 St. Food Corp	101594406	01/14/12	\$200.00
Total				\$400.00

Previously Provided Recommendation

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.

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 16.¹

Campaign's Response

The Draft Audit Report identified check numbers 1001 and 1002 as having been unreported. In its response, the Campaign stated that it previously reported these transactions. However, in two instances the Campaign made two expenditures to the same entity, in the same amount, but only reported one of them.

The Campaign first reported a \$200.00 contribution refund to JFA Food Corp on December 27, 2011 with check number 1001 (Transaction ID 16/M/R0000124). However, the Campaign had previously submitted bank check number 101594405 dated January 14, 2012 as documentation of this contribution refund. In response to the Draft Audit Report, the Campaign submitted a copy of cancelled check number 1001 dated December 27, 2011, which was also a \$200.00 contribution refund to JFA Food Corp. This check did not clear the Campaign's bank account until February 29, 2012. Although the Campaign reported check number 1001, bank check number 101594405 was never reported. *See* also Finding #6b and Exhibit I.

The Campaign reported a \$200.00 contribution refund to 60 W 183 St Food Court on December 27, 2011 with check number 1002 (Transaction ID 16/M/R0000127). However, the Campaign had previously submitted bank check number 101594406 dated January 14, 2012 as documentation of this contribution refund. In response to the Draft Audit Report, the Campaign submitted a copy of cancelled check number 1002 dated December 27, 2011, which was also a \$200.00 contribution refund to 60 W 183 St Food Court. This check did not clear the Campaign's bank account until December 26, 2012. Although, the Campaign reported check number 1002, bank check number 101594406 was never reported. *See* also Finding #6c and Exhibit I.

Board Action

The Board found the Campaign in violation and in combination with Finding #4 assessed \$93 in penalties.

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

Contribution Findings**2. Prohibited Contributions – Corporate/Partnership/LLC**

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

a) The Campaign accepted a contribution from an entity listed on the New York State Department of State’s website as an LLC in the following instance:

CONTRIBUTION FROM A PROHIBITED SOURCE				
NAME	STATEMENT/ SCHEDULE/ TRANSACTION	RECEIVED DATE	AMOUNT	NOTE
Zippity Print LLC	11/F/R0000546	08/19/13	\$123.00	(1)

(1) The invoice for the expenditure listed above indicates that the Campaign received a discount from the vendor in connection with the goods/services provided. *See* Exhibit II and Finding #3a.

b) The Campaign accepted a contribution from an entity listed on the New York State Department of State’s website as a corporation in the following instance:

CONTRIBUTION FROM A PROHIBITED SOURCE				
NAME	STATEMENT/ SCHEDULE/ TRANSACTION	RECEIVED DATE	AMOUNT	NOTE
Abrue, Carlos	16/D/R0000856	12/07/11	\$150.00	(1)

(1) The Campaign reported this in-kind contribution with its response to the Draft Audit Report. The Campaign submitted an invoice from Monte Carlo for \$150.00 to document the value of the in-kind contribution. The invoice lists Carlos Abrue as President. CFB Staff was able to determine that Carlos Abreu is the Chief Executive Officer of Jerome Restaurant Corp., which is incorporated at the same address the Campaign reported for Carlos Abrue and the same address as Monte Carlo. As the Campaign did not provide evidence that Mr. Abrue paid for the rental of the space for the event from personal funds, it appears that the expense was forgiven by Mr. Abrue in his position as CEO of the company, which is a contribution from Monte Carlo/ Jerome Restaurant Corp., a prohibited source. *See* Exhibit III and Finding #3b.

Previously Provided Recommendation

a) The Campaign may be able to reduce this penalty by, for the Zippity Print contribution, providing documentation from Zippity Print describing the basis of the discount it provided the Campaign and whether it was routinely available to the general public or others.

b) For the Monte Carlo/JRC contribution, the Campaign must provide documentation showing that Abrue, in a personal capacity, was actually the source of the in-kind contribution, such as payment documentation (e.g., a copy of a cancelled check from Abrue to Monte Carlo/JRC for the invoiced amount). Alternatively, if Abrue did not personally pay for the expenditure, the Campaign may reduce the penalty amount by paying the outstanding invoice and submitting a copy of the payment documentation.

Campaign's Response

a) The Campaign stated that this was a 10% discount based on the purchase amount and that such discounts are the vendor's standard practice. However, the Campaign stated that it was unable to obtain supporting documentation from the vendor.

b) This finding was identified as a result of the Campaign's response to the Draft Audit Report. The Campaign did not contest this finding in the Notice of Alleged Violations and Recommended Penalties.

Board Action

a – b) The Board found the Campaign in violation and assessed \$773 in penalties.

3. Undocumented or Unreported In-Kind Contributions

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

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

a) The invoice for the expenditure listed below indicates that the Campaign received a discount in connection with the goods/services being provided.

NAME	STATEMENT/ SCHEDULE/ TRANSACTION	INVOICE DATE	AMOUNT	DISCOUNTED AMOUNT
Zippity Print LLC*	11/F/R0000546	08/19/13	\$1,252.10	\$123.00

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

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

NAME	STATEMENT/ SCHEDULE/ TRANSACTION	RECEIVED DATE	AMOUNT	NOTE
Abrue, Carlos	16/D/R0000856	12/07/2011	\$150.00	(1)

(1) The Campaign reported this in-kind contribution with its response to the Draft Audit Report. The Campaign provided an invoice from Mr. Abrue that documented the value of the in-kind contribution, but failed to document the source of the in-kind contribution. *See* Exhibit III and Finding #2b.

Previously Provided Recommendation

a) The Campaign may be able to reduce this penalty by, for the Zippity Print contribution, providing documentation from Zippity Print describing the basis of the discount it provided the Campaign and whether it was routinely available to the general public or others.

b) For the Monte Carlo/JRC contribution, the Campaign must provide documentation showing that Abrue, in a personal capacity, was actually the source of the in-kind contribution, such as payment documentation (e.g., a copy of a cancelled check from Abrue to Monte Carlo/JRC for the invoiced amount). Alternatively, if Abrue did not personally pay for the expenditure, the Campaign may reduce the penalty amount by paying the outstanding invoice and submitting a copy of the payment documentation.

Campaign's Response

a) The Campaign stated that this was a 10% discount based on the purchase amount and that such discounts are the vendor's standard practice. However, the Campaign stated that it was unable to obtain supporting documentation from the vendor.

b) This finding was identified as a result of the Campaign's response to the Draft Audit Report.

Board Action

a) 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 Finding #2a.*

b) 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 Finding #2b.*

Expenditure Findings

4. Candidate Personal Contributions

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

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

Previously Provided Recommendation

If the Campaign believes that it is not required to disclose the contributions listed on Exhibit IV, 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 IV in C-SMART as Candidate Personal Contributions and submit amendments to its disclosure statements to report the transactions.

Campaign's Response

The Campaign stated, "The candidate regularly contributes to this committee. As a democrat he has a long standing relationship with them." However, according to the New York State Board of Elections' contributor database, the candidate made only one contribution of \$500.00 in the four years prior to the 2013 election cycle.

Board Action

The Board found the Campaign in violation and in combination with Finding #1 assessed \$93 in penalties.

5. Undocumented/Unreported Joint Expenditures

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

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

The Campaign provided a copy of an invoice for Century Direct (Transaction ID 11/F/R0000549), which is included as Exhibit V, that states the invoice covers "Your proportional share of the 2013 Bronx Democratic County Designating petitions." Based on a review of this information, the Campaign did not fully account for the joint campaign activity with other campaigns or provide information about the allocation methodology.

Previously Provided Recommendation

The Campaign must provide a methodology for the cost allocation which identifies the other campaigns involved, shows the share for each, and documents the calculation of each share. The Campaign must provide supporting documentation for its response.

Campaign’s Response

The Campaign stated this was a joint expenditure with Victor Pichardo’s campaign and that the Campaign equally shared the cost. However, the Campaign did not submit supporting documentation to show the total cost of the petition printing to verify this information.

Board Action

The Board found the Campaign in violation and assessed \$100 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 below which—based on the reporting and/or documentation—are non-campaign related:

PAYEE	STATEMENT/ SCHEDULE/ TRANSACTION	PURPOSE CODE	INVOICE DATE	DATE PAID	AMOUNT	NOTE
Staples	8/F/R0000447	OFFCE	02/02/13	04/25/13	\$62.87	(1)

(1) The Campaign must explain how this expenditure was campaign-related. The characteristics of the documentation provided indicate that it was for personal use. *See* also Finding #7 and Exhibit VI.

b) The Campaign issued two contribution refunds to JFA Food Corp totaling \$400.00 (one via bank check number 101594405 and the other via committee check number 1001), for one \$200.00 contribution. Because the Campaign refunded the same contribution twice, the second

contribution, check number 1001, is a non-campaign related expenditure. *See* also Finding #1 and Exhibit I.

c) The Campaign issued two refunds to 60 W 183 St. Food Court totaling \$400.00 (one via bank check number 101594406 and the other via committee check number 1002), for one \$200.00 contribution. Because the Campaign refunded the same contribution twice, the second contribution, check number 1002, is a non-campaign related expenditure. *See* also Finding #1 and Exhibit I.

Previously Provided Recommendation

a) 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.

b – c) These findings were identified as a result of the Campaign’s response to the Draft Audit Report.

Campaign’s Response

a) The Campaign stated that the Staples expenditure was for thank you cards in order to promote the Candidate and gather support for the election. However, the invoice submitted by the Campaign also lists purchases of “New Birthday Assortment” and “With Sympathy,” which the Campaign did not demonstrate were in furtherance of the campaign.

b – c) These findings were identified as a result of the Campaign’s response to the Draft Audit Report.

Board Action

a – c) The Board found the Campaign in violation, but did not assess a penalty.

7. Expenditure Documentation

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

The Campaign must provide supporting documentation or an explanation for the reported transaction below:

NAME	TRANSACTION TYPE	STATEMENT/ SCHEDULE/ TRANSACTION	INCURRED/RECEIVED/ REFUNDED/PAID DATE	AMOUNT	NOTE
Staples	Expenditure	8/F/R0000447	04/25/13	\$62.87	(1)

(1) The Campaign provided an invoice for this transaction, which lists a “store credit” of \$134.99. *See* Exhibit VI. The Campaign must provide documentation and explain why a store credit was applied to this expenditure. *See* also Finding #6a.

Previously Provided Recommendation

The Campaign must submit documentation, or explanations as indicated, for each listed transaction.

Campaign’s Response

In response to the Draft Audit Report, the Campaign provided an explanation for the store credit, stating that the Campaign returned previously purchased items. However, the Campaign did not submit documentation showing the return of the previously purchased items nor did it report expenditure refunds.

Board Action

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

8. Expenditures – Improper Post-Election

A Program participant must use any excess funds remaining after an election to reimburse the Public Fund for public funds payments received by the participant. Until the participant has reimbursed all of the public funds payments he or she received, excess campaign funds may not be used for any other purpose, except for post-election expenditures for the preceding election, or for limited, routine activities of nominal cost associated with winding up a campaign and responding to the post-election audit. Campaigns have the burden of demonstrating that post-election expenditures were for such routine activities. *See* Admin. Code § 3-710(2)(c); Rule 5-03(e)(2).

The Cabrera for City Council campaign was a participant and received \$23,100.00 in public funds. Therefore, until it reimbursed the Public Fund, the Campaign’s post-election spending was restricted to expenditures for routine activities associated with winding up the campaign and responding to the post-election audit.

On March 25, 2014, the Campaign made a \$33,000.00 transfer from the Cabrera for City Council bank account to the bank account of Cabrera for Senate—another committee of Fernando Cabrera. The CFB subsequently informed the Campaign that it was required to return all remaining funds, up to the amount of the total public funds it had received, before making such a transfer. On July 29, 2014, Cabrera for City Council returned the full \$23,100.00 in public funds it had received.

Previously Provided Recommendation

Because the Campaign previously returned the funds, the CFB did not identify further corrective action.

Campaign's Response

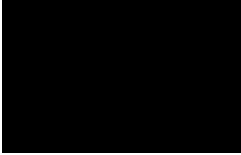
The Campaign did not provide any further response to this finding.

Board Action

The Board found the Campaign in violation, but did not assess a penalty.

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

Respectfully submitted,



Signature on original

Sauda S. Chapman

Director of Auditing and Accounting

Date: May 23, 2016

Staff: Danielle Willemin, CFE

Kevin Ramnaraine

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

Candidate: Cabrera, Fernando L (ID:1256-P)**Office:** 5 (City Council)**Election:** 2013

1. Opening cash balance (All committees)		\$0.00
2. Total itemized monetary contributions (Sch ABC)		\$55,961.00
3. Total unitemized monetary contributions		\$0.00
4. Total in-kind contributions (Sch D)		\$150.00
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)		\$41,347.29
Expenditure payments	\$37,278.78	
Advance repayments	\$4,068.51	
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)		\$850.00
18. Total outstanding liabilities (Sch N - last statement submitted)		\$398.17
Outstanding Bills	\$0.00	
Outstanding Advances	\$398.17	
19. Total advanced amount (Sch X)		\$0.00
20. Net public fund payments from CFB		\$0.00
Total public funds payment	\$23,100.00	
Total public funds returned	(\$23,100.00)	
21. Total Valid Matchable Claims		\$9,671.00
22. Total Invalid Matchable Claims		\$20.00
23. Total Amount of Penalties Assessed		\$966.00
24. Total Amount of Penalty Payments		\$966.00
25. Total Amount of Penalties Withheld		\$0.00

Exhibit I
Cabrera for City Council
Contribution Refund Documentation
(see Findings #1, #6b, and #6c)

HSBC Bank USA, N.A. - Image Archive

NYCCFB DEC-18-2014

CABRERA FOR CITY COUNCIL
BRONX, NY

DATE 12/27/12

1001
1100210

PAY TO THE ORDER OF JFA Food Corp \$ 200.00
two hundred 00/100 DOLLARS

HSBC
FOR John of C. Cabrera

#00000200000

Signature on original

ID
124

RECEIVED
FOR DEPOSIT
CONSOLIDATED SUPER FUND
SUPER FUND LLC
00942311987
BANK OF AMERICA

AMERICA NA INT
NEW YORK NY
02/29/12

170186845

156 422

To: n... n... n...
1581 Broadway 1...
New York, N.Y. 10108

Account Number	Date Posted	Trd Ind	Check Number	Amount	Sequence Number	Tran Code
	02/29/2012		000001001	200.00	7815027825	000000

HSBC Bank USA, N.A. - Image Archive

NYCCTB DEC-18-2814

CABRERA FOR CITY COUNCIL
BRONX, NY

DATE 12/27/11

ORDER OF 60 W. 183 St Food Court

\$ 200.00

two hundred 00/100

HSBC
New York, NY 10005

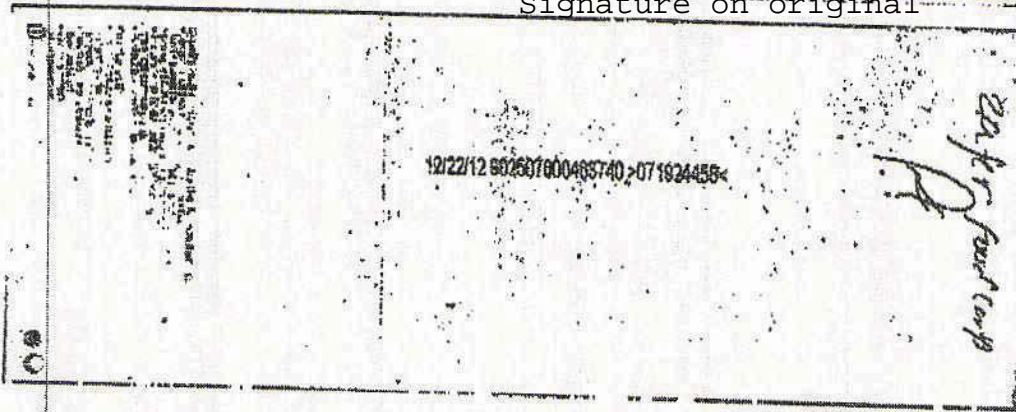
FOR Return of Contribution 12/12/11

1002
1-08010

⑆001002⑆ ⑆021001088⑆

ID
127

Signature on original



Account Number	Date Posted	Ird Ind	Check Number	Amount	Sequence Number	Tran Code
[REDACTED]	12/26/2012		0000001002	200.00	7816424113	000000

HOLD DOCUMENT UP TO THE LIGHT TO VIEW TRUE WATERMARK



Branch : 555

US DOLLAR DRAFT
(OFFICIAL CHECK)

No. 101594404

CABRERA FOR CITY COUNCIL

REMITTER

14Jan2012

DATE

50-125
223

PAY USD TWO HUNDRED ONLY

\$ 200.00
U.S. DOLLARS

ID 121
refund
of ID
120

TO THE ORDER OF
GAVA FOOD CORP.*

Signature on original



Payable through HSBC Bank USA, N.A.

2012-01-19 NYC CFB

HOLD DOCUMENT UP TO THE LIGHT TO VIEW TRUE WATERMARK



Branch : 555

US DOLLAR DRAFT
(OFFICIAL CHECK)

No. 101594405

CABRERA FOR CITY COUNCIL

REMITTER

14Jan2012

DATE

50-125
223

PAY USD TWO HUNDRED ONLY

\$ 200.00
U.S. DOLLARS

ID 124
refund
of ID
123

TO THE ORDER OF
JFA FOOD CORP.*

Signature on original



Payable through HSBC Bank USA, N.A.

HOLD DOCUMENT UP TO THE LIGHT TO VIEW TRUE WATERMARK



Branch : 555

US DOLLAR DRAFT
(OFFICIAL CHECK)

No. 101594406

CABRERA FOR CITY COUNCIL

REMITTER

14Jan2012

DATE

50-125
223

PAY USD TWO HUNDRED ONLY

\$ 200.00
U.S. DOLLARS

ID 127
refund
of ID
126

TO THE ORDER OF
60 W. 183ST. FOOD COURT*

Signature on original



Payable through HSBC Bank USA, N.A.

2012-01-19 NYC CFB

Exhibit II
Cabrera for City Council
Prohibited Contributions – Corporate/Partnership/LLC
(see Findings #2a and #3a)

1/13/2014



Production/Retail

1600 East 23rd Street, Cleveland, OH 44114
PH: 216-438-0001

Administrative Office

182 Harrisonville Road, Mullica Hill, NJ 08062
PH: 856-256-2625

NYCCS REC 18-2014

Fernando Cabrera
Cabrera for City Council



1ZE239W2039407

Order 1379

6409

Cash In Advan

08/16/2013

08/31/2013

PAID

\$0.00

RC05 (4X9)	2	270.00	540.00
RS1422_250	1	690.00	690.00
Shipping	1	145.10	145.10
Discount	-1	123.00	-123.00

ID
~~545~~ 545

\$1,252.10

\$1,252.10

\$0.00

Exhibit III
Cabrera for City Council
Undocumented or Unreported In-Kind Contributions
(see Findings #2b and #3b)

From: Friends of Cabrera [REDACTED]
Sent: Saturday, December 03, 2011 12:49 AM
To: [REDACTED]
Subject: Fundraising Event for Councilman Fernando Cabrera
Attachments: 12.7.2011 Fundraiser w-address.pdf; CABRERA FUNDRAISING FORM - ENGLISH0001.pdf; CABRERA FUNDRAISING FORM - SPANISH0001.pdf

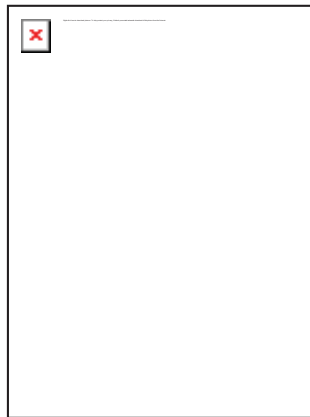
Dear Friends and Family,

We look forward to re-electing Fernando Cabrera into office of Council member. He was worked hard and has made a difference in District 14 and in City Hall. Please continue your support and look forward to your attendance is this special event.

Please feel free to contact us if you have any questions.

Friends of Cabrera
Committee

Reelection Fundraising for Councilman Fernando Cabrera



Wednesday, December 7, 2011

6:30pm - 9:00pm

At the

Monte Carlo

2700 Jerome Avenue

Bronx, New York

You Are Cordially Invited to

Meet and Greet
NYC Councilman
Fernando Cabrera

***December 7, 2011
6:30 -9:00 pm***

Fundraising Event

Elected to the NYC council in 2010 he has been a tireless advocate for his Fordham, Kingsbridge, Morris Heights and West Bronx constituents.



2700 Jerome Ave.

Bronx, NY

Bet. Kingsbridge & 196th St.

Please RSVP to this exclusive event

[Redacted] or call

[Redacted]

***Makes checks payable to:
Cabrera for City Council***

[Redacted]

[Redacted]

Y
C
C
F
B
D
E
C
-
1
8
-
2
0
0
1
4



INVOICE

Carlos Abrue, President
2700 Jerome Avenue
Bronx, New York 10468
917-405-3047

DATE: December 7, 2011
INVOICE # 100

BILL TO:
Cabrera for City Council
Attn: Paul Susana

FOR: Fundraising Event

NYCCFB DEC-10-2014

DESCRIPTION	HOURS	RATE	AMOUNT
Use of facility	2.00	75.00	\$ 150.00

SUBTOTAL	\$ 150.00
TAX RATE	
SALES TAX	-
OTHER	
TOTAL	\$ 150.00

Make all checks payable to Monte Carlo

10
856

THANK YOU FOR YOUR BUSINESS!

Exhibit IV
Cabrera for City Council
Unreported Political Committee Contributions
(see Finding #4)

Contributor	Payee	Source	Date	Amount
Fernando L Cabrera	Bronx Democratic County Committee - Housekeeping	BOE	07/13/10	\$3,600.00
Fernando Cabrera	Bronx Democratic County Committee - Housekeeping	BOE	01/20/11	\$500.00
Fernando Cabrera	Bronx Democratic County Committee - Housekeeping	BOE	01/19/12	\$150.00
Total				<u>\$4,250.00</u>

Exhibit V
Cabrera for City Council
Undocumented/Unreported Joint Expenditures
(see Finding #5)

1/13/2014



ID
548

CENTURY
DIRECT

30-30 47th Avenue
Long Island City, NY 11101-3415
212.763.0600
718.349.9523 Fax
www.centurydirect.net

INVOICE



ORDERED BY Committee to Elect Fernando Cabrera

INVOICE NO.	CUSTOMER ORDER NO.	DATE
1128		6-19-13

Your proportional share of the 2013 Bronx Democratic County Designating petitions

NET INVOICE	626.10
SALES TAX	55.57
INVOICE TOTAL	681.67

Please remit payment to: Century Direct

Mail / FedEx /UPS your payment to: Century Direct
Att: Jayne Goldberg
30-30 47th Avenue
Long Island City, NY 11101

Century Direct thanks you for your business and hopes you feel justified in recommending its service to others.

Exhibit VI
Cabrera for City Council
Expenditure Documentation
(see Findings #6a and #7)



INVOICE DATE	CUSTOMER	SUMMARY INVOICE
2/02/13	NYC 1643991	8024470530
PLEASE PAY BY	TERMS	AMOUNT DUE
3/04/13	Net 30 Days	197.86

INVOICE DETAIL

Staples Advantage

Federal ID #:04-3390816

DR. FERNANDO CABRERA-NY CITY COUNCI
 ANTHONY SPRINGER
 107 E. BURNSIDE AVE
 2ND FL
 BRONX, NY 10453

DR. FERNANDO CABRERA-NY CITY COUNCI
 ATTN: ANTHONY SPRINGER
 107 E. BURNSIDE AVE
 2ND FL
 BRONX, NY 10453



Bill to Account: #A95846

Ship to Account: 107 E. BURNSIDE

Budget Ctr:

P O Number:

Ordered by: ANTHONY SPRINGER

Release:

Job:

Invoice Number: 3191616864

Order: 7095241440-000-001

Order Date: 1/23/13

Order Line	Item Number	Description	Order Qty	B/O Qty	Unit Meas	Ship Qty	Unit Price	Extended Price
1	890552 7434343357	NEW BIRTHDAY ASSORTMENT	1		EA	1	52.06	52.06
2	699577 7434343827	WITH SYMPATHY	1		BX	1	93.73	93.73
3	910819 7434340107	THANKYOUFORYOURBUSINESSAST50PK	1		EA	1	52.07	52.07
4	595558	DISH BTRGNT DAWN DRG 30OZ	2	2	EA		4.99	.00
5	735680	33 GAL BLK DRWSTRNG LINER 30PK	2	2	BX		5.99	.00
6	395579	SPONGE MP 4.5X2.8 BE3PK	1	1	PK		2.99	.00
7	861328	7 OZ. PETE PLASTIC GOLD CUP CL	3	3	PK		4.99	.00
8	814881	LINER 33X39 1.35MIL 150CT BLK	1	1	CT		29.79	.00

Freight:	.00	Tax: (.0000%)	.00	Sub-Total:	197.86
				Total:	197.86

Balance to follow

store credit
 -134.99
 \$ 62.87

I certify that the expenditures charged herein have been received by me and in accordance with all applicable laws (including the conflicts of interest provisions contained in Chapter 68 of the City Charter) and are reasonable and necessary as a Council Member of the City of New York.

Signature on original
 [Redacted Signature]
 Member Print
 Location of Goods/Services

JD
 446

NYC COUNCIL
 PURCHASING DIVISION
 RECEIVED
 019 FEB 13 P 3:55