



New York City Campaign Finance Board
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Via C-Access
December 15, 2015

John J Ciafone
John J. Ciafone for City Council



Dear John J. Ciafone:

Please find attached the New York City Campaign Finance Board's ("CFB" or "Board") Final Audit Report for the 2013 campaign of John J. Ciafone (the "Campaign"). CFB staff prepared the report based on a review of the Campaign's financial disclosure statements and documentation submitted by the Campaign.

The report concludes that the Campaign demonstrated substantial compliance with the Campaign Finance Act (the "Act") and the Board Rules (the "Rules"), with exceptions as detailed in the report.

The January 15, 2014 disclosure statement (#16) was the last disclosure statement the Campaign was required to file with the CFB for the 2013 elections. The Campaign is required to maintain its records for six years after the election, and the CFB may require the Campaign to demonstrate ongoing compliance. *See* Rules 3-02(b)(3), 4-01(a), and 4-03. In addition, please contact the New York State Board of Elections for information concerning its filing requirements.

The CFB appreciates the Campaign's cooperation during the 2013 election cycle. Please call the Audit Unit at 212-409-1800 with any questions regarding specific findings in the report.

Sincerely,

A large black rectangular redaction box covering the signature of Jonnathon Kline.

Jonnathon Kline, CFE
Director of Auditing and Accounting

signature on original

c: John J. Ciafone for City Council

A black rectangular redaction box covering contact information for John J. Ciafone for City Council.

Attachments



EC2013 Final Audit Report

John J. Ciafone for City Council

December 2015

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RESULTS IN BRIEF

The results of the New York City Campaign Finance Board’s (“CFB” or “Board”) review of the reporting and documentation of the 2013 campaign of John J. Ciafone (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 file the required daily disclosure statements during the two weeks preceding the 2013 primary election (see Finding #1).

Contribution Findings

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

- The Campaign received a discount for services and failed to document this in-kind contribution (see Finding #2).
- The Campaign accepted a contribution from a prohibited source (see Finding #3).
- The Campaign accepted a cash contribution greater than \$100 (see Finding #4).
- The Campaign must provide requested documentation for reported contributions (see Finding #5).

Expenditure Findings

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 must provide requested documentation for reported expenditures (see Finding #6).

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: John J. Ciafone	Contribution Limit:
ID: 448	\$2,750
Office Sought: City Council	
District: 22	Expenditure Limit:
	2010–2012: N/A
Committee Name: John J. Ciafone for City Council	2013 Primary: N/A
Classification: Non-Participant	2013 General: N/A
Filer Registration Date: July 08, 2013	
	Public Funds:
Ballot Status: Primary	Received: N/A
Primary Election Date: September 10, 2013	Returned: N/A
Party: Democratic	
	Campaign Finance Summary:
	http://bit.ly/1k8BBpi

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.

Prior to the election, we performed reviews of the Campaign's compliance with the Act and Rules. 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.

Finally, we determined if the Campaign submitted timely responses to post-election audit requests sent by the CFB.

Following an election, campaigns 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 finding numbers and exhibit numbers, as well as the number of transactions included in the finding, may have changed from the Draft Audit Report to the Final Audit Report. The Campaign responded, and the CFB evaluated any additional documentation provided and/or amendments to reporting made by the Campaign in response. After reviewing the Campaign's response, CFB staff determined that the total recommended penalties for the Campaign's violations did not exceed \$500, and as a result the staff did not recommend enforcement action to the Board. The Board's determinations 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. Daily Pre-Election Disclosure – Statements of Contributions/Expenditures

During the 14 days preceding an election, if a candidate: (1) accepts a loan, contribution, or contributions from a single source in excess of \$1,000; or (2) makes aggregate expenditures to a single vendor in excess of \$20,000, the candidate shall report such contributions, loans, and expenditures to the Board in a disclosure, received by the Board within 24 hours of the reportable transaction. *See* Rule 3-02(e). This includes additional payments of any amount to vendors who have received aggregate payments in excess of \$20,000 during the 14-day pre-election period. These contributions and expenditures must also be reported in the Campaign’s next disclosure statement.

The Campaign did not file the required daily disclosure to report the following transaction:

CONTRIBUTION:			
NAME	STATEMENT/ SCHEDULE/ TRANSACTION	RECEIVED DATE	AMOUNT
Ciafone, John J	12/ABC/R0000014	08/29/13	\$8,000.00

Previously Provided Recommendation

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

Campaign Response

In response to the Draft Audit Report, the Campaign stated, “Timing of situation did not permit for filing of disclosure and I was overwhelmed campaigning and my office position. Unfortunately, I was both the Treasurer and Candidate who was responsible for everything and I was overwhelmed and was beyond my scope.” However, the Candidate’s other activities do not absolve the Campaign of its responsibility to file these disclosures.

Board Action

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

Contribution Findings

2. 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).*

An invoice for the expenditures 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	NOTE
The National Herald	16/F/R0000123	09/07/2013	\$400.00		(1)
The National Herald	16/F/R0000124	09/07/2013	\$500.00	\$150.00	(2)

(1) The invoice provided by the Campaign indicates that the total cost of the expenditure is \$1,050.00. The Campaign reported paying two expenditures totaling \$900.00. The Campaign must submit a statement from vendor as to why the discount was provided and if the discount was available to others.

(2) *See also Finding #3.*

Previously Provided Recommendation

The Campaign must provide an explanation for the discount noted in the documentation. If the discount is routinely available to the general public or others, the Campaign must provide written confirmation from the vendor. If the discount is not routinely available to others, the Campaign must report the amount of the discount as an in-kind contribution from the vendor and submit an amendment to Statement 16. If the vendor is a prohibited source, the Campaign must pay the amount of the discount to the vendor by bank or certified check and provide the CFB with copies of the refund check or pay the Public Fund an amount equal to the amount of the prohibited contribution.

Campaign Response

This finding was identified as a result of the CFB’s analysis of the Campaign’s 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.

3. Prohibited Contributions – Corporate/Partnership/LLC

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

The Campaign accepted a contribution from the entity listed on the New York State Department of State’s website as corporations, partnerships, and/or LLCs in the following instance. The contribution was a result of the Campaign’s response to the Draft Audit Report.

CONTRIBUTIONS FROM PROHIBITED SOURCES

NAME	STATEMENT/ SCHEDULE/ TRANSACTION	INCURRED/ RECEIVED/ REFUNDED DATE	AMOUNT	NOTE
National Herald	16/F/R0000124	09/07/13	\$150.00	(1)(2)

(1) The invoice provided by the Campaign for the transaction indicates that the total cost of the expenditure is \$1,050.00. The Campaign reported paying two expenditures totaling \$900.00. The difference in the

amount reported and the unpaid amount listed on the invoice is considered an in-kind contribution. *See* also Finding #2.

(2) National Herald Inc. is a corporation listed on the NYS Department of State Division of Corporations database.

Previously Provided Recommendation

This finding was identified as a result of the CFB’s analysis of the Campaign’s response to the Draft Audit Report.

Campaign Response

This finding was identified as a result of the CFB’s analysis of the Campaign’s response to the Draft Audit Report.

Board Action

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

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

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

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

NAME	STATEMENT/ SCHEDULE/ TRANSACTION	RECEIVED DATE	AMOUNT	AMOUNT OVER-THE- CASH-LIMIT
Ciafone, John J	12/ABC/R0000014	08/29/2013	\$8,000.00	\$7,900.00
Ciafone, John J	16/ABC/R0000046	09/03/2013	\$5,000.00	\$5,000.00
Ciafone, John J	16/ABC/R0000047	09/18/2013	\$5,000.00	\$5,000.00
Ciafone, John J	16/ABC/R0000048	11/15/2013	\$2,157.25	\$2,157.25

Previously Provided Recommendation

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

Campaign Response

This finding was identified as a result of the CFB's analysis of the Campaign's 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.

5. Contribution Documentation

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

The Campaign must provide supporting documentation for the reported transactions listed below:

NAME	TRANSACTION TYPE	STATEMENT/ SCHEDULE/ TRANSACTION	INCURRED/RECEIVED/ REFUNDED/PAID DATE	AMOUNT
Ciafone, John J	Contribution	12/ABC/R0000014	08/29/13	\$8,000.00

Previously Provided Recommendation

The Campaign must submit documentation for each listed transaction. Please refer to pages 49 - 57 of the 2013 CFB Handbook for further information on documentation that should be provided.

Campaign Response

In response to the Draft Audit Report, the Campaign stated, "Attached are the bank statements, copy of JP & Associates check, C-Smart print outs of submission/attachment. I deposited \$5,000 on 07/24/2013 from my own Corporate check, JP & Associates to establish my Campaign account. I realized that this was an incorrect method of deposit. Therefore, I went to the bank, withdrew the monies and closed the account. I re-opened the account on 08/29/2013 with \$8,000.00 cash deposit for the Campaign." The Campaign did not provide sufficient backup documentation including a deposit slip for the \$8,000.00 cash contribution listed.

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

6. 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 transactions listed below. The Campaign has reported all of its expenditures and outstanding liabilities to the Candidate, which appears unrealistic given the variety of services provided, including: printing, advertisements, rent and mailing. The Campaign must amend its disclosure statements to accurately report the vendors.

NAME	TRANSACTION TYPE	STATEMENT/ SCHEDULE/ TRANSACTION	INCURRED/RECEIVED/ REFUNDED/PAID DATE	AMOUNT
Time Warner Cable Enterprise	Expenditure	16/F/R0000102	09/09/12	\$4,518.60
42-04 30 th Avenue Realty Co.	Expenditure	16/F/R0000105	09/09/12	\$2,000.00
Astoria Printing & Copy Center	Expenditure	16/F/R0000108	09/09/13	\$754.00
Augustus Strategies, Inc.	Expenditure	16/F/R0000118	09/05/13	\$100.00
CBS Radio, Inc.	Expenditure	16/F/R0000148	09/10/13	\$2,763.00

Previously Provided Recommendation

The Campaign must submit documentation, or explanations as indicated, for each listed transaction. The documentation provided should include, but not be limited to: invoices, contracts, cancelled checks, broadcast records and copies of literature. The Campaign must amend its disclosure statement to accurately report the vendors.

Campaign Response

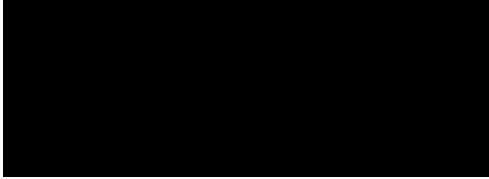
In response to the Draft Audit Report, the Campaign submitted documentation for several expenditures. The Campaign submitted a Statement of Account for the expenditure made to Time Warner Cable which did not detail the services that were provided. For the expenditure described as ‘rent for 42-02 30th Ave,’ the Campaign did not provide a lease agreement or an invoice for the transaction. The Campaign did not submit invoices for expenditures made to Astoria Printing & Copy Center, Augustus Strategies, Inc., and CBS Radio Inc.

Board Action

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

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

Respectfully submitted,



Jonnathon Kline, CFE

Director of Auditing and Accounting

signature on original

Date: December 15, 2015

Staff: Melody Lee

Michael Iacono

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

Candidate: Ciafone, John J (ID:448-NP)**Office:** 5 (City Council)**Election:** 2013

1. Opening cash balance (All committees)		\$0.00
2. Total itemized monetary contributions (Sch ABC)		\$25,157.25
3. Total unitemized monetary contributions		\$0.00
4. Total in-kind contributions (Sch D)		\$531.04
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)		\$20,195.25
Expenditure payments	\$20,195.25	
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)		\$5,000.00
18. Total outstanding liabilities (Sch N - last statement submitted)		\$0.00
Outstanding Bills	\$0.00	
Outstanding Advances	\$0.00	
19. Total advanced amount (Sch X)		\$0.00
20. Net public fund payments from CFB		\$0.00
Total public funds payment	\$0.00	
Total public funds returned	\$0.00	
21. Total Valid Matchable Claims		N/A
22. Total Invalid Matchable Claims		N/A
23. Total Amount of Penalties Assessed		N/A
24. Total Amount of Penalty Payments		\$0.00
25. Total Amount of Penalties Withheld		\$0.00