



**New York City Campaign Finance Board**  
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Via C-Access  
September 27, 2016

Kathleen T. Don Angelo  
Duane for New York  
25 Miller Boulevard  
Syosset, NY 11791

Dear Kathleen Don Angelo:

Please find attached the New York City Campaign Finance Board's ("CFB" or "Board") Final Audit Report for the 2013 campaign of John F. Duane (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 October 8, 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 \$1,375.

The full amount owed must be paid no later than **October 27, 2016**. Please send a check in the amount of \$1,375, payable to the "New York City Election Campaign Finance Fund," to: New York City Campaign Finance Board, 100 Church Street, 12th Floor, New York, NY 10007.

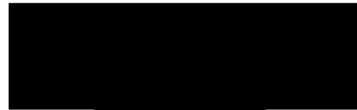
If the CFB is not in receipt of the full amount owed by **October 27, 2016**, the Candidate's name and the amount owed will be posted on the CFB's website. The CFB may also initiate a civil action to compel payment. In addition, the Candidate will not be eligible to receive public funds for any future election until the full amount is paid. Further information regarding liability for this debt can be found in the attached Final Board Determination.

The 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. 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: John F. Duane



Duane for New York  
25 Miller Boulevard  
Syosset, NY 11791

Attachments



# **EC2013 Final Audit Report**

Duane for New York

September 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 John F. Duane (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, by the due dates, financial disclosure statements required by the Board (see Finding #1).
- The Campaign did not file the required daily disclosure statements during the two weeks preceding the 2013 primary election (see Finding #2).

### ***Contribution Findings***

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

- The Campaign accepted aggregate contributions exceeding the \$8,250 candidate contribution limit for the 2013 election cycle (see Finding #3).
- The Campaign accepted contributions from prohibited sources (see Finding #4).
- The Campaign did not disclose in-kind contributions received (see Finding #5).

### ***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 #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: Duane, John F.	Contribution Limit:
ID: M1	\$2,750
Office Sought: City Council	
District: 19	Expenditure Limit:
	2010–2012: \$45,000
Committee Name: Duane for New York	2013 Primary: \$168,000
Classification: Participant	2013 General: N/A
Certification Date: June 7, 2013	
	Public Funds:
Ballot Status: Primary	Received: \$92,400.00
Primary Election Date: September 10, 2013	Returned: \$15,188.50 <sup>1</sup>
Party: Democratic	
	Campaign Finance Summary:
	<a href="http://bit.ly/1yRYK2u">http://bit.ly/1yRYK2u</a>

<sup>1</sup> The Campaign provided a check for \$15,188.50, dated July 2, 2014.

## 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 18, 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 given the opportunity to respond. The Campaign responded and the CFB evaluated any additional information provided by the Campaign. The Campaign chose 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 finding, may have changed from the Draft Audit Report to the Final Audit Report.

**AUDIT RESULTS**

*Disclosure Findings*

**1. Failure to File and Late Filings**

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

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

STATEMENT #	DUE DATE	DATE FILED	# DAYS LATE
10	08/09/13	08/19/13	10
16	01/15/14	01/23/13	8

**Previously Provided Recommendation**

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

**Campaign’s Response**

In response to the Draft Audit Report, the Campaign stated, “the treasurer thought the disclosure statements were filed on time until she was notified by the CFB. Once she was contacted by the CFB that the filings were not received, they were filed promptly.”

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

**Board Action**

The Board found the Campaign in violation and assessed \$900 in penalties.

**2. Daily Pre-Election Disclosure – Statements of Contributions/Expenditures**

During the 14 days preceding an election, if a candidate: (1) accepts a loan, contribution, or contributions from a single source in excess of \$1,000; or (2) makes aggregate expenditures to a single vendor in excess of \$20,000, the candidate shall report such contributions, loans, and

expenditures to the Board in a disclosure, received by the Board within 24 hours of the reportable transaction. *See* Rule 3-02(e). This includes additional payments of any amount to vendors who have received aggregate payments in excess of \$20,000 during the 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 disclosures to report the following transactions:

EXPENDITURES:			
NAME	STATEMENT/ SCHEDULE/ TRANSACTION	DATE INCURRED	AMOUNT
Get Out the Vote	12/F/R0000904	09/02/13	\$14,100.00
Get Out the Vote	12/F/R0000902	09/04/13	\$8,190.00
Blue and Read, LLC	16/F/R0000931	09/06/13	\$23,820.62

### **Previously Provided Recommendation**

If the Campaign believes it filed the required daily disclosures 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 disclosures is not a violation, but it cannot file daily pre-election disclosures now.

### **Campaign's Response**

In response to the Draft Audit Report, the Campaign stated, "there was no intention to not comply. The treasurer and candidate were overwhelmed during the weeks leading up to the election and they did not realize that the reports were due."

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

### **Board Action**

The Board found the Campaign in violation and assessed \$100 in penalties.

*Contribution Findings*

**3. Prohibited Contributions – Contributions Over the Limit**

Campaigns may not accept contributions, either directly or by transfer, from any single source in excess of the applicable contribution limit for the entire election cycle. A single source includes, but is not limited to, any person or entity who or which establishes, maintains, or controls another entity and every entity so established, maintained, or controlled. *See* Rule 1-04(h). Cumulative contributions from a single source may include monetary contributions, in-kind contributions, and outstanding loans or advances, etc.

Candidates participating in the Program may contribute up to three times the contribution limit to their own campaign. *See* Admin. Code § 3-703(1)(h). Non-participating candidates are not limited in the amount they can contribute to their own campaign from their own money. *See* Admin. Code § 3-719(2)(b).

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

CONTRIBUTIONS OVER THE LIMIT

NAME	STATEMENT/ SCHEDULE/ TRANSACTION	TRANSACTION TYPE	INCURRED/ RECEIVED/ REFUNDED DATE	AMOUNT	NOTE
Duane, John F.	5/ABC/R0000024	Monetary Contribution	04/26/12	\$8,250.00	
Duane, John F.	Unreported	Candidate Personal Contributions	Various	\$3,700.00	(1)
Duane, John F.	Unreported	Expenditure Payment	11/01/14	\$5,000.00	(2)
Duane, John F.	Unreported	Expenditure Payment	12/01/14	\$7,000.00	(2)
				\$23,950.00	
				Office Limit	(\$8,250.00) (3)
				<b>Amount Over-the-Limit</b>	<b>\$15,700.00</b>

(1) See Finding #6 and Exhibit II.

(2) On June 1, 2015, CFB staff sent the Campaign a letter requesting information and documentation regarding work performed by Don Angelo & Associates CPA’s P.C. In response to the letter, the Campaign provided documentation indicating that post-election services related to responding to the CFB were provided by Don Angelo and Associates CPA’s P.C., totaling \$12,000. These services were paid for by the Candidate and therefore added to the Candidate’s contribution limit.

(3) The contribution limit for the Candidate is three times the office limit of \$2,750.00, or \$8,250.00.

## Previously Provided Recommendation

The Campaign must address the outstanding contribution limit violation:

- The Campaign must refund the over-the-limit portion of each contribution by bank or certified check and provide the CFB with copies of the refund check or pay the New York City Election Campaign Fund (the “Public Fund”) an amount equal to the amount of the overage.
- If the Campaign disagrees with this finding, it must provide an explanation and documentation to demonstrate that it did not accept contributions in excess of the limit. *See* also Finding #6 and Exhibit II.

Even if the portion of the contribution in excess of the limit is refunded, accepting a contribution in excess of the limit may result in a finding of violation and the assessment of a penalty.

The Campaign may be able to reduce this penalty by refunding the Candidate the amount over-the-limit (\$12,000) by bank or certified check and providing the Board staff with copies of the refund check, or paying the New York City Election Campaign Fund an amount equal to the amount of the overage.

## Campaign’s Response

In response to the Draft Audit Report, the Campaign stated, “John Duane has been a member of the Democratic Organization of Queens County for many years before the current campaign on which the audit is based.” The Campaign provided copies of contribution checks made to the political committee dating back to August 2008. However, the documentation provided and the Campaign’s explanation is not sufficient in proving the Candidate had a prior personal relationship with the recipient political committee as the majority of the contributions made to the political committee were in during the 2013 election cycle.

In response to the Notice of Alleged Violations and Recommended Penalties, the Campaign agreed that the Candidate made \$12,000 in expenditures (payments of \$5,000 and \$7,000) on behalf of the Campaign to Don Angelo and Associates, CPAs, P.C. for services relating to the post-election audit. It stated that it, “believed that once the Campaign was over, funds remaining in the Campaign account should be returned to the CFB expeditiously. At that time, we did not have the audit report and could not have anticipated the advisability of retaining Mr. Don Angelo’s services in order to respond in a thorough and coherent fashion to it.” On July 2, 2014, prior to CFB notification, the Campaign returned \$15,188.50 to the CFB, as it believed that the audit was completed.

## Board Action

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

**4. 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).

Prior to the election, the Campaign accepted contributions from entities listed on the New York State Department of State’s website as corporations, partnerships, and/or LLCs in the following instances. After notification from the CFB, the Campaign refunded the contributions.

PREVIOUSLY REFUNDED CONTRIBUTIONS FROM PROHIBITED SOURCES

NAME	STATEMENT/ SCHEDULE/ TRANSACTION	INCURRED/ RECEIVED/ REFUNDED DATE	AMOUNT	NOTE
Singer, Lawrence	8/ABC/R0000541	03/28/13	\$175.00	(1)
Singer, Lawrence	9/M/R0000769	06/25/13	(\$175.00)	
Gaye, Chris	8/ABC/R0000594	04/12/13	\$250.00	(2)
Gaye, Chris	16/M/R0000924	07/25/13	(\$250.00)	

(1) Although the Campaign reported the contribution as shown, the documentation provided indicates that this contribution was from Larry Singer Studios.

(2) Although the Campaign reported the contribution as shown, the documentation provided indicates that this contribution was from C.E. Gaye and Sons Securities.

**Previously Provided Recommendation**

The Campaign previously refunded these prohibited contributions and no further response is necessary at this time. However, the Campaign may still be penalized for accepting these contributions. If the Campaign disagrees with this finding, it must provide an explanation and documentation to demonstrate that its acceptance of the contribution was not a violation.

Even if the prohibited contribution is refunded, accepting a prohibited contribution may result in a finding of violation and the assessment of a penalty.

**Campaign’s Response**

The Campaign did not respond to this finding in its response to the Draft Audit Report. In its response to the Notice of Alleged Violations and Recommended Penalties, the Campaign did not contest this finding.

**Board Action**

The Board found the Campaign in violation and assessed \$375 in penalties.

**5. Undocumented or Unreported In-Kind Contributions**

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

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

a) Documentation obtained by the CFB indicates that one or more expenditures were made to advance the election of the Candidate. However, the Campaign did not report the expenditure.

DESCRIPTION OF ITEM	EXHIBIT #
Out-Bound Automated Phone Calls	I

b) On the day of the primary election, CFB observers interviewed individuals engaged in campaign-related activity. During the course of this process, the observers learned the following:

A worker engaged in distributing literature near a polling site stated that his name was James Cameron. Mr. Cameron stated that he was to work from 5:00 a.m. to 9:00 p.m. and would be paid \$11.50 per hour. In addition, Mr. Cameron stated that he was picked up at Flushing and Main Streets by a man who provided Duane campaign literature, and dropped off at the poll site, which was located at PS 209 Clearview Gardens, 16-10 Utopia Parkway, Queens. Mr. Cameron also stated that he would be picked up and transported back to Flushing and Main Streets.

Although the individual was engaged in activity to advance the election of the Candidate and stated the Campaign was involved in directing or facilitating the activity he was performing, the Campaign's disclosure does not include any reported payment to an individual of the name given to the observers. The activity observed and the lack of reported expenditures indicate that a third party paid for these services.

### **Previously Provided Recommendation**

a) For each transaction, the Campaign must provide a written explanation describing how the good or service was purchased or provided. If the purchase was previously reported, the Campaign must identify the relevant Transaction ID(s) of the purchase. If the Campaign purchased the goods or services listed, it must provide invoices, contracts, and any other documentation related to the purchase. If a third party purchased or donated the good or service, the Campaign must submit an in-kind contribution form completed by the contributor. If not previously reported, the Campaign must enter the bill and bill payment or in-kind contribution in C-SMART and submit an amendment to Statement 16.

b) The Campaign must provide contemporaneous sign-in sheets for all workers paid by the Campaign or any other party for services provided on the date of the primary election. The Campaign must address how the individual above was associated with the Campaign. If the individual was paid, the Campaign must provide information about the source and amounts of all payments to workers on those dates. Specifically, the Campaign must explain who paid the individual, how much he was paid, and if any other individuals were compensated in the same manner.

- If the Campaign reported the cost as part of another expenditure, the Campaign must describe the relevant transaction(s)—including the transaction ID(s) of the payment(s)—and provide supporting documentation, including the timesheets for each worker.
- If a third party was compensated by the Campaign to pay for these services, the Campaign must identify the payment to the third party by transaction ID(s) and provide a list of all individuals who were paid by the third party. The Campaign must also provide timesheets for each worker.



- If workers were paid by a third party that was not compensated by the Campaign, the Campaign must provide evidence of the source of the in-kind contribution, e.g., a copy of the cancelled check paying the worker, or a signed statement from the in-kind contributor verifying that it paid for the in-kind contribution. If the Campaign did not report an in-kind contribution, it must explain its failure to do so and amend its disclosure statements to report it.
- If the worker was not paid by the Campaign or a third party, explain why the worker stated that he expected to be paid for his work on behalf of the Campaign.

### **Campaign's Response**

a) In response to the Draft Audit Report, the Campaign provided an email dated December 3, 2014, from Steve Kramer stating that the Campaign was being billed \$249.72 for the automated calls. The Campaign obtained the invoice via email, however it did not pay for the expenditure.

b) In response to the Draft Audit Report, the Campaign stated, "it is possible that the worker in question was hired by Get Out The Vote. As of this time we have not received a response from them." The Campaign failed to provide the requested documentation.

### **Board Action**

a-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.

### ***Expenditure Findings***

## **6. 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 II. These transactions also count toward the Campaign's expenditure limit, and have been deducted from the Campaign's matching claims pursuant to Rule 5-01(n). Finally, the transactions count towards the Candidate's contribution limit, resulting in an aggregate contribution over the office limit (see Finding #3).

### **Previously Provided Recommendation**

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

### **Campaign's Response**

In response to the Draft Audit Report, the Campaign stated, "John Duane has been a member of the Democratic Organization of Queens County for many years before the current campaign on which the audit is based." The Campaign provided copies of contribution checks made to the political committee dating back to August 2008. However, the documentation provided and the Campaign's explanation is not sufficient in proving the Candidate had a prior personal relationship with the recipient political committee as the majority of the contributions made to the political committee were in during the 2013 election cycle.

### **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.

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,



Souda S. Chapman

Director of Auditing and Accounting

Date: September 27, 2016

Staff: Selene Muñoz

Nailaja Mingo

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

**Candidate:** Duane, John F (ID:M1-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)		\$80,270.00
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)		\$157,131.22
Expenditure payments	\$157,131.22	
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)		\$75.02
17. Total receipts adjustment (Sch M - excluding CFB repayments)		\$425.00
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		\$77,212.00
Total public funds payment	\$92,400.00	
Total public funds returned	(\$15,188.00)	
21. Total Valid Matchable Claims		\$19,775.00
22. Total Invalid Matchable Claims		\$100.00
23. Total Amount of Penalties Assessed		\$1,375.00
24. Total Amount of Penalty Payments		\$0.00
25. Total Amount of Penalties Withheld		\$0.00

**Exhibit I**  
**Duane for New York**  
**Get Out the Vote Invoice Dated September 10, 2013**  
**(see Findings #5a)**

Y  
C  
C  
C  
F  
B  
  
2  
0  
1  
4  
  
0  
0  
2  
2  
0  
4  
NYCER 2611-6296

# Get Out The Vote

**Date:** September 10, 2013  
**To:** Duane Campaign  
**Re:** Outbound Phone Program

**Project 1 – Out-Bound Automated Phone Program**

**Specs:** GOTV implemented an automated, out-bound phone program consisting of existing phone lists provided by the client

**Lists:** 6,243 unique #s

**Rate:** 3 cents (up to 35 seconds) // 4 cents (36 to 45 seconds)  
5 cents (46 to 55 seconds) // 6 cents (56 to 65 seconds)

**Number of different outgoing messages/lists:** 1

<b>Total Cost:</b>	9/9 (36sec)	6,243 x \$ .04	= \$ 249.72
	<u>Set up Fee (waived)</u>	<u>\$ 50 x 0</u>	= \$ <u>00.00</u>
<b>Total</b>			= \$ <b>249.72</b>

Client is solely liable for the content of its messages

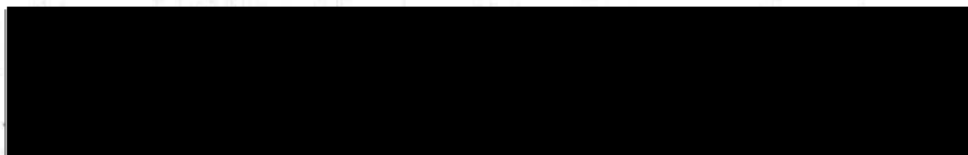
**Payment**

Credit Card or Wire transfer is preferred and payment is required for all outbound programs

**Wire to:** Chase Bank - 305 Bowery New York, N.Y. 10012 (212) 353-2428



**Ref:** Get Out The Vote – 100 West 39<sup>th</sup> St. #PH-F NY, NY 10018



**Exhibit II**  
**Duane for New York**  
**Unreported Political Committee Contributions**  
**(see Finding #5a)**

<b>Contributor</b>	<b>Payee</b>	<b>Source</b>	<b>Date</b>	<b>Amount</b>
John F Duane	Democratic Organization Of Queens County	BOE	01/19/10	\$300.00
John F Duane	Democratic Organization Of Queens County	BOE	04/30/10	\$300.00
John F Duane	Democratic Organization Of Queens County	BOE	10/05/10	\$300.00
John F Duane	Democratic Organization Of Queens County	BOE	01/07/11	\$300.00
John F Duane	Democratic Organization Of Queens County	BOE	04/29/11	\$300.00
John F Duane	Democratic Organization Of Queens County	BOE	10/11/11	\$300.00
John F Duane	Democratic Organization Of Queens County	BOE	01/18/12	\$300.00
John F Duane	Democratic Organization Of Queens County	BOE	05/30/12	\$300.00
John F Duane	Democratic Organization Of Queens County	BOE	10/05/12	\$300.00
John F Duane	Democratic Organization Of Queens County	BOE	01/18/13	\$300.00
John F Duane	Democratic Organization Of Queens County	BOE	05/15/13	\$350.00
John F Duane	Democratic Organization Of Queens County	BOE	10/09/13	\$350.00
<b>Total</b>				<b><u>\$3,700.00</u></b>