



New York City Campaign Finance Board
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Via C-Access
June 16, 2015

Jonathan Conte
Friends of James Vacca



Dear Jonathan Conte:

Please find attached the New York City Campaign Finance Board's ("CFB" or "Board") Final Audit Report for the 2013 campaign of James Vacca (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 May 14, 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 \$600.

The full amount owed must be paid no later than **July 16, 2015**. Please send a check in the amount of \$600, 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.

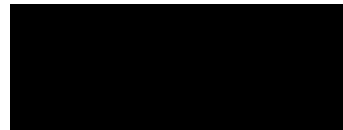
If the CFB is not in receipt of the full amount owed by **July 16, 2015**, the Candidate's name and the amount owed will be posted on the CFB's website. The CFB may also initiate a civil action to compel payment. In addition, the Candidate will not be eligible to receive public funds for any future election until the full amount is paid. Further information regarding liability for this debt can be found in the attached Final Board Determination.

The 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 with any questions about the enclosed report.

Sincerely,



Jonnathon Kline, CFE
Director of Auditing and Accounting

signature on original

c: James Vacca



Friends of James Vacca



Attachments



EC2013 Final Audit Report

Friends of James Vacca

June 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 James Vacca (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 aggregate contributions exceeding the \$2,750 contribution limit for the 2013 election cycle (see Finding #2).
- The Campaign accepted a contribution from a prohibited source (see Finding #3).
- The Campaign accepted contributions from unregistered political committees (see Finding #4).

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: James Vacca	Contribution Limit:
ID: 821	\$2,750
Office Sought: City Council	
District: 13	Expenditure Limit:
	2010–2012: \$45,000
Committee Name: Friends of James Vacca	2013 Primary: \$168,000
Classification: Participant	2013 General: \$168,000
Certification Date: May 29, 2013	
	Public Funds:
Ballot Status: General	Received: \$0
	Returned: \$0
General Election Date: November 5, 2013	
Party: Democratic	Campaign Finance Summary:
	http://bit.ly/1yS6LEx

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 17, 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 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.

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.

OTHER MATTERS

During the 2013 election cycle, Vacca 2009—another committee of James Vacca—made expenditures. As a result, the CFB attributed \$10,294.15 of the expenditures occurring between February 20, 2010 and January 5, 2014 to the Campaign.

The use of an entity other than the designated principal committee to aid in the election will result in the application of the Act and Board Rules, including the expenditure limit, to the other entity's activity. *See* Admin. Code §§ 3-702(2), (7), 3-703(1)(e); Board Rules 2-01(a), 1-08(c)(3). Expenditures are presumed to be made for the first election following the day they are made, with the exception of State or local election expenditures made before the first January 12 following the election, or federal election expenditures made before the first January 1 following the election. *See* Board Rule 1-08(c)(1).

On October 15, 2013, the Campaign was notified that the CFB had preliminarily attributed expenditures made by other committees to the 2013 Campaign, but it did not dispute the attribution.

The Campaign's expenditures—adjusted for relevant factors including spending by other committees—did not result in a finding that the Campaign had exceeded the applicable expenditure limit, and as a result the Campaign does not need to respond to this issue. However, candidates are reminded that if committees not reported to be involved in the election make expenditures, the Campaign has the burden of demonstrating that the expenditures were not related to the election.

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
Hudson Valley Bank	XXXXX6401	Checking	Jan 2010 – May 2012; Jan 2013 – May 2013; Jul 2013 – Sept 2013

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

The Campaign must provide the bank statements listed below:

BANK	ACCOUNT #	ACCOUNT TYPE	STATEMENT PERIOD
Hudson Valley Bank	XXXXX6401	Checking	Jun 2013 pg 4 – 6 ; Oct 2013 pg 4; Nov 2013 pg 4; Dec 2013 pg 4;

Previously Provided Recommendation

The Campaign must provide all pages of the requested bank statements.

Campaign’s Response

In response to the Draft Audit Report, the Campaign provided the missing pages for June 2012 – December 2012. It did not submit the missing pages for June 2013 and October – December

2013. However, these missing pages do not appear to have information that affects the debit and credit balances.

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

Board Action

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

Contribution Findings

2. 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 a contribution 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
New York State Laborers	1/ABC/R0001728	Monetary Contribution	03/20/10	\$1,000.00
NY State Laborers's	3/ABC/R0002589	Monetary Contribution	04/24/11	\$500.00
New York State Laborers	5/ABC/R0003182	Monetary Contribution	04/04/12	\$1,500.00
				\$3,000.00
Office Limit				(\$2,750.00)
Amount Over-the-Limit				\$250.00

Previously Provided Recommendation

The Campaign must address each outstanding contribution limit violation:

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

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

Campaign’s Response

In response to the Draft Audit Report, the Campaign explained that a data entry error resulted in its acceptance of an over-the-limit contribution from the New York State Laborers. The Campaign refunded the \$250 over-the-limit portion with a cashier’s check on September 18, 2014.

The Campaign did not contest this finding in its response to the Notice of Alleged Violations.

Board Action

The Board found the Campaign in violation and assessed \$125 in penalties.

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).

Prior to the election, the Campaign accepted a contribution from an entity listed on the New York State Department of State’s website as a corporation, partnership, and/or LLC in the following instance. After notification from the CFB, the Campaign refunded the contribution.

PREVIOUSLY REFUNDED CONTRIBUTIONS FROM PROHIBITED SOURCES

NAME	STATEMENT/ SCHEDULE/ TRANSACTION	RECEIVED DATE	AMOUNT	NOTE
Bonelli, Peppino	1/ABC/R0001479	03/20/10	\$175.00	(1)
Bonelli, Peppino	5/M/R0002733	01/30/12	(\$175.00)	(1)

(1) Although the Campaign reported the contribution as shown, the documentation provided indicates that the source of the contribution was D'Arrigo and Bonelli, D.D.S, L.L.P.

Previously Provided Recommendation

The Campaign previously refunded this prohibited contribution and no further response is necessary at this time. However, the Campaign may still be penalized for accepting this contribution. 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.

Campaign’s Response

The Campaign did not contest this finding.

Board Action

The Board found the Campaign in violation and assessed \$225 in penalties.

4. Prohibited Contributions – Unregistered Political Committees

Participating campaigns may not, either directly or by transfer, accept any contribution, loan, guarantee, or other security for a loan from any political committee, unless it is registered with the CFB, or registers within ten days of receipt of the contribution. *See* Admin. Code §§ 3-703(1)(k), 3-707; Rule 1-04(d).

A list of registered political committees can be viewed on the CFB’s website, www.nyccfb.info. Political committees are often required to register with governmental agencies other than the CFB; however, registering with those agencies does not register them with the CFB.

a) Prior to the election, the Campaign accepted a contribution from an unregistered political committee in the following instance. After notification from the CFB, the political committee registered with the CFB.

CONTRIBUTIONS FROM UNREGISTERED POLITICAL COMMITTEES THAT
SUBSEQUENTLY REGISTERED OR WHOSE CONTRIBUTIONS WERE REFUNDED

NAME	STATEMENT/ SCHEDULE/ TRANSACTION	RECEIVED DATE	AMOUNT	NOTE
Simcha NY	3/ABC/R0002600	06/30/11	\$2,500.00	(1)

(1) The political committee subsequently registered with the CFB on 12/14/11.

b) The Campaign accepted a contribution from an unregistered political committee in the following instance:

CONTRIBUTIONS FROM UNREGISTERED POLITICAL COMMITTEES

NAME	STATEMENT/ SCHEDULE/ TRANSACTION	RECEIVED DATE	AMOUNT
Local 983 PAC	5/ABC/R0002970	04/04/12	\$1,000.00

Previously Provided Recommendation

a) The Campaign previously resolved this prohibited contribution and no further response is necessary at this time. However, the Campaign may still be penalized for accepting this contribution. 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.

b) The Campaign must address the prohibited contribution as follows:

- The Campaign must refund each prohibited contribution by bank or certified check, and provide the CFB with a copy of the refund check; or pay the Public Fund an amount equal to the contribution.
- The above finding may not be a violation if the Campaign can demonstrate that 1) the political committee is actually registered, or 2) the source of the contribution is actually a different and permissible type of entity, misreported as a political committee. If the Campaign maintains that accepting this contribution was not a violation, it may submit documentation (such as a copy of the contribution check or proof of the name or type of entity) showing that accepting 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

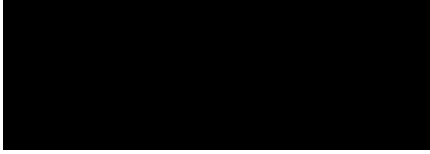
- a) The Campaign did not contest this finding.
- b) In response to the Draft Audit Report, the Campaign acknowledged its error in accepting this contribution and refunded the prohibited \$1,000 to Local 983 PAC with a cashier's check on September 18, 2014.

Board Action

- a-b) The Board found the Campaign in violation and assessed \$250 in penalties.

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

Respectfully submitted,



Jonnathon Kline, CFE

Director of Auditing and Accounting
signature on original

Date: June 16, 2015

Staff: Hannah Golden

Sonia M. Simões

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

Candidate: Vacca, James (ID:821-P)**Office:** 5 (City Council)**Election:** 2013

1. Opening cash balance (All committees)		\$0.00
2. Total itemized monetary contributions (Sch ABC)		\$312,583.00
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)		\$166,090.46
Expenditure payments	\$159,516.84	
Advance repayments	\$6,573.62	
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)		\$116.12
17. Total receipts adjustment (Sch M - excluding CFB repayments)		\$17,545.00
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		\$57,693.00
22. Total Invalid Matchable Claims		\$7,800.00
23. Total Amount of Penalties Assessed		\$600.00
24. Total Amount of Penalty Payments		\$0.00
25. Total Amount of Penalties Withheld		\$0.00