New York City Campaign Finance Board
100 Church Street, 12th Floor, New York, NY 10007
212.409.1800 | www.nyccfb.info

Via C-Access
December 1, 2015

Michael J. Kuharski
Lisa G for NY
[redacted]

Dear Michael Kuharski:

Please find attached the New York City Campaign Finance Board's ("CFB" or "Board") Final Audit Report for the 2013 campaign of Lisa E. Giovinazzo (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. If the Campaign raises additional contributions to pay outstanding liabilities, please note that all 2013 election requirements, including contribution limits, remain in effect. The Campaign is required to maintain its records for six years after the election, and the CFB may require the Campaign to demonstrate ongoing compliance. *See* Rules 3-02(b)(3), 4-01(a), and 4-03. In addition, please contact the New York State Board of Elections for information concerning its filing requirements.

The CFB appreciates the Campaign's cooperation during the 2013 election cycle. Please contact the Audit Unit at 212-409-1800 or AuditMail@nyccfb.info with any questions about the enclosed report.

Sincerely,

[redacted]

Jonnathon Kline, CFE
Director of Auditing and Accounting

signature on original

c: Lisa E. Giovinazzo
[redacted]

Lisa G for NY
[redacted]

Attachments

EC2013 Final Audit Report

Lisa G for NY

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 Lisa E. Giovinazzo (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).

Expenditure Findings

Campaigns participating in the Campaign Finance Program are required to comply with the spending limit. All campaigns are required to properly disclose and document expenditures and disburse funds in accordance with the Act and Rules. Findings in this section relate to the Campaign's failure to comply with the Act and Rules related to its spending.

- The Campaign made expenditures that were not in furtherance of the Campaign (see Finding #2).

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: Lisa E. Giovinazzo
ID: 756
Office Sought: City Council
District: 50

Committee Name: Lisa G for NY
Classification: Participant
Certification Date: May 9, 2013

Ballot Status: Primary
Primary Election Date: September 10, 2013
Party: Republican

Contribution Limit:
$2,750

Expenditure Limit:
2010–2012: $45,000
2013 Primary: $168,000
2013 General: N/A

Public Funds:
Received: $92,400
Returned: $0

Campaign Finance Summary:

http://bit.ly/1rkJPvg

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 26, 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 obligation to repay public funds, and was asked to respond. The Campaign responded and the CFB evaluated any additional information provided by the Campaign. After reviewing the Campaign's response(s), CFB staff determined that the Campaign had resolved all of the outstanding findings and the total recommended penalties for the Campaign's violations did not exceed $500, and as a result the staff chose not to recommend enforcement action to the Board. The Campaign chose not to contest the CFB staff recommendations. The Board's actions are summarized as a part of each Finding in the Audit Results section. The finding numbers and exhibit numbers, as well as the number of transactions included in the findings, may have changed from the Draft Audit Report to the Final Audit Report.

AUDIT RESULTS

Disclosure Findings

1. Financial Disclosure Reporting - Discrepancies

Campaigns are required to report every disbursement made, and every contribution, loan, and other receipt received. *See* Admin. Code § 3-703(6); Rule 3-03. In addition, campaigns are required to deposit all receipts into an account listed on the candidate's Certification. *See* Admin. Code § 3-703(10); Rule 2-06(a). Campaigns are also required to provide the CFB with bank records, including periodic bank statements and deposit slips. *See* Admin. Code §§ 3-703(1)(d), (g); Rules 4-01(a), (b)(1), (f).

The Campaign provided the following bank statements:

BANK	ACCOUNT #	ACCOUNT TYPE	STATEMENT PERIOD
Capital One	XXXXXX5093	Checking	Dec 2012 – Jan 2015

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 reported the following transactions that do not appear on its bank statements:

NAME	CHECK NO./ TRANSACTION	STATEMENT/ SCHEDULE/ TRANSACTION	PAID DATE	AMOUNT
Staples	Debit	9/F/R0000402	05/16/13	$31.99

Previously Provided Recommendation

For each transaction reported in the Campaign's disclosure statements that does not appear on the Campaign's bank statements, the Campaign must provide evidence to show that the transaction cleared the bank (i.e., a copy of the front and back of the check, and the bank statement showing the payment). Alternatively, the Campaign may provide evidence that the transaction was reported in error, or amend the Campaign's disclosure statement to void the check. For each voided check, the Campaign must either issue a replacement check or forgive the expenditure payment. Any forgiven liabilities will be considered in-kind contributions, which could result in contribution limit violations, or be considered contributions from a prohibited source. The Campaign may need to contact the payee to determine why the transaction did not clear.

Please note that any newly entered transactions that occurred during the election cycle (01/12/10—01/11/14) will appear as new transactions in an amendment to Disclosure Statement 16, even if the transaction dates are from earlier periods. Any transactions dated after the election cycle will appear in disclosure statements filed with the New York State Board of Elections. Also note that the Campaign must file an amendment for each disclosure statement in which transactions are being modified. Once all data entry is completed, the Campaign should run the Modified Statements Report in C-SMART to identify the statements for which the Campaign must submit amendments. The C-SMART draft and final submission screens also display the statement numbers for which the Campaign should file amendments. If the Campaign added any new transactions, it must submit an amendment to Disclosure Statement 16.[1]

Campaign's Response

The Campaign stated that the Staples transaction ID 9/F/R0000402 for $31.99 was reported in error, and that it amended its reporting by deleting the erroneously reported transaction from C-SMART. However, the transaction remains reported.

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

2. Expenditures – Not In Furtherance of the Campaign

Campaigns may only spend campaign funds for items that further the candidate's election. Campaigns must keep detailed records to demonstrate that campaign funds were used only for those purposes. *See* Admin. Code §§ 3-703(1)(d), (g); Rule 4-01. The law gives examples of the types of expenditures that are presumed to be campaign-related, although in certain circumstances expenditures of the types listed as appropriate may be questioned. Among the relevant factors are: the quality of the documentation submitted; the timing and necessity of the expenditure; the amount of the expenditure and/or all expenditures of a specific type in relation to the Campaign's total expenditures; and whether the expenditure is duplicative of other spending. The law also prohibits the conversion of campaign funds to personal use which is unrelated to a political campaign, and provides examples of expenditures that are not in furtherance of a campaign. *See* New York State Election Law §14-130; Admin. Code §§ 3-702(21), 3-703, and 3-710(2)(c); Rules 1-03(a), and 5-03(e), and Advisory Opinion No. 2007-3 (March 7, 2007). Expenditures not

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

demonstrated to be in furtherance of the candidate's election are considered "non-campaign related."

The Campaign reported the expenditure listed below which—based on the documentation—is non-campaign related:

PAYEE	STATEMENT/ SCHEDULE/ TRANSACTION	PURPOSE CODE	INVOICE DATE	DATE PAID	AMOUNT	NOTE
Metrolineinc.Com	10/F/R0000763	OFFCE	08/01/13	08/01/13	$76.95	(1)

(1) Based on the invoice provided for this transaction, it appears that the Campaign purchased a symbols/ barcode scanner. Without an explanation describing how the Campaign used the barcode scanner, this expenditure is considered non-campaign related.

Previously Provided Recommendation

This finding was identified as a result of the Campaign's response to the Draft Audit Report dated September 4, 2014. As a result, the Campaign was not previously informed of this issue or required to respond.

Campaign's Response

This finding was identified as a result of the Campaign's response to the Draft Audit Report dated September 4, 2014. As a result, the Campaign was notpreviously informed of this issue or required to respond.

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,

Jonnathon Kline, CFE

Director of Auditing and Accounting

signature on original

Date: December 1, 2015

Staff: Selene Muñoz

Shuchi Pandya

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

Candidate: Giovinazzo, Lisa E (ID:756-P)
Office: 5 (City Council)
Election: 2013

1. Opening cash balance (All committees)		$0.00
2. Total itemized monetary contributions (Sch ABC)		$64,230.00
3. Total unitemized monetary contributions		$0.00
4. Total in-kind contributions (Sch D)		$350.00
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)		$157,732.20
Expenditure payments	$157,384.42	
Advance repayments	$347.78	
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)		$2,228.19
17. Total receipts adjustment (Sch M - excluding CFB repayments)		$0.00
18. Total outstanding liabilities (Sch N - last statement submitted)		$4,066.48
Outstanding Bills	$4,066.48	
Outstanding Advances	$0.00	
19. Total advanced amount (Sch X)		$0.00
20. Net public fund payments from CFB		$92,400.00
Total public funds payment	$92,400.00	
Total public funds returned	$0.00	
21. Total Valid Matchable Claims		$29,525.00
22. Total Invalid Matchable Claims		$200.00
23. Total Amount of Penalties Assessed		N/A
24. Total Amount of Penalty Payments		$0.00
25. Total Amount of Penalties Withheld		$0.00