



**New York City Campaign Finance Board**

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212.409.1800 | [www.nycffb.info](http://www.nycffb.info)

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Chair

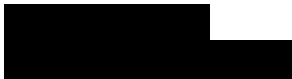
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Via C-Access  
December 8, 2015

Robin A. Macron  
Friends of Mark Macron



Dear Robin Macron:

Please find attached the New York City Campaign Finance Board's ("CFB" or "Board") Final Audit Report for the 2013 campaign of Mark A. Macron (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 contact the Audit Unit at 212-409-1800 or [AuditMail@nyccfb.info](mailto:AuditMail@nyccfb.info) with any questions about the enclosed report.

Sincerely,

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

signature on original

Jonnathon Kline, CFE  
Director of Auditing and Accounting

c: Mark A. Macron  
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Friends of Mark Macron  
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Attachments



# **EC2013 Final Audit Report**

Friends of Mark Macron

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 Mark A. Macron (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).
- The Campaign did not disclose payments made by a vendor to subcontractors (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 a contribution from a prohibited source (see Finding #3).
- The Campaign did not disclose in-kind contributions received (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: Mark A. Macron	Contribution Limit:
ID: 1779	\$2,750
Office Sought: City Council	
District: 49	Expenditure Limit:
	2010–2012: N/A
Committee Name: Friends of Mark Macron	2013 Primary: N/A
Classification: Participant	2013 General: \$168,000
Certification Date: June 6, 2013	
	Public Funds:
Ballot Status: General	Received: \$80,190.00
General Election Date: November 5, 2013	Returned: \$4,464.62
Party: Conservative and Republican	
	Campaign Finance Summary:
	<a href="http://bit.ly/1yS2HnM">http://bit.ly/1yS2HnM</a>

## 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. Based on various criteria, we also selected the Campaign for an onsite review, and visited the Campaign's location to observe its activity and review its recordkeeping. 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. After reviewing the Campaign's response, CFB staff established that the total recommended penalties for the Campaign's alleged violations did not exceed \$500, and as a result the staff did not recommend any enforcement action to the Board. 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
Sovereign Bank	XXXXX2181	Checking	Jun 2013 – June 2014

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

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

NAME	CHECK NO./ TRANSACTION	STATEMENT/ SCHEDULE/ TRANSACTION	PAID DATE	AMOUNT
Lois, Jose	1064	15/F/R0000571	11/02/13	\$120.00
Casseles, Pasqual	1065	15/F/R0000574	11/02/13	\$120.00
Ryan, Matt	1066	15/F/R0000577	11/02/13	\$120.00
<b>Total</b>				<b>\$360.00</b>

#### Previously Provided Recommendation

For each transaction reported in the Campaign's disclosure statement 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.<sup>1</sup>

### **Campaign's Response**

In response to the Draft Audit Report, the Campaign stated that CFB staff advised it to treat the checks as forgiven liabilities and report them as in-kind contributions. The Campaign stated that it amended its reporting to the NYS BOE accordingly. However, the Campaign did not amend its reporting to the CFB in accordance with the direction it was given.

### **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.

## **2. Disclosure – Possible Subcontractors**

Subcontractors are vendors that a campaign's vendor hires to supply goods/services. If a vendor hired by a campaign pays a subcontractor more than \$5,000, the campaign must report the vendor, the name and address of the subcontractor, the amounts paid to the subcontractor, and the purpose of the subcontracted goods/services. *See* Rule 3-03(e)(3).

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

The vendor listed below received large payments and may have subcontracted goods and services. However, the Campaign did not report subcontractors used by this vendor:

PAYEE	AMOUNT PAID
Newscast	\$12,800.00

### **Previously Provided Recommendation**

The Campaign must contact the vendor, who must verify whether subcontractors were used. The Campaign may provide the vendor with a copy of the Subcontractor Form (available on the CFB website at [http://www.nyccfb.info/PDF/forms/subcontractor\\_disclosure\\_form.pdf](http://www.nyccfb.info/PDF/forms/subcontractor_disclosure_form.pdf)) for this purpose, and submit the completed form with the Campaign's response. In addition, if subcontractors were used and paid more than \$5,000, the Campaign must amend its disclosure statements to report subcontractor information. If the vendor does not complete the Subcontractor Form, the Campaign should submit documentation of its attempts to obtain this information, including copies of certified mail receipts and the letters sent to the vendors.

### **Campaign's Response**

In response to the Draft Audit Report, the Campaign provided copies of the letters it mailed to Newscast requesting that it complete the Subcontractor Disclosure form, along with certified mail receipts as proof of its attempts to obtain subcontractor information from Newscast.

### **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***

### **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	INCURRED/ RECEIVED/ REFUNDED DATE	AMOUNT	NOTE
Frazzetto, Vincent	9/ABC/R0000082	07/10/13	\$200.00	(1)

(1) Although the Campaign reported the contribution as shown, the documentation provided indicates that this contribution was from Vincent J. Frazzetto, DDS, P.C.

**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**

In response to the Draft Audit Report, the Campaign stated that it had no knowledge that the check was drawn on a business account as the check only lists the individual’s name. The Campaign noted that upon notification from the CFB it immediately refunded the contribution.

**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. Unreported In-Kind Contributions**

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

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

a) The Campaign reported the following expenditures. However, the reported payments for these expenditures are not present on any of the bank statements provided by the Campaign, nor are they reported as outstanding liabilities. (*See* also Finding #1.) As a result, the Campaign’s reporting and documentation indicate that a third party paid for these transactions, or that the goods or services were provided by the reported payee for free.

NAME	REPORTED CHECK NO./ TRANSACTION	STATEMENT/ SCHEDULE/ TRANSACTION	PAID DATE	AMOUNT
Lois, Jose	1064	15/F/R0000571	11/02/13	\$120.00
Casseles, Pasqual	1065	15/F/R0000574	11/02/13	\$120.00
Ryan, Matt	1066	15/F/R0000577	11/02/13	\$120.00
<b>Total</b>				<b>\$360.00</b>

b) Documentation obtained by the CFB indicates that Joe Lhota for Mayor printed, paid and circulated several petitions which included the Candidate. While Joe Lhota for Mayor did not request that the Candidate pay its share of the joint petition, such expenditure is presumed to have advanced the election of the Candidate and is considered an in-kind contribution to the Campaign. Based on the methodology provided, the Campaign’s share was \$449.79. However, the Campaign failed to report the in-kind contribution.

### Previously Provided Recommendation

a) For each transaction the Campaign must provide a written explanation describing how the good or service was purchased or provided, and who paid for it. If the Campaign paid the expenditure, it 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. If the reported payee donated the goods or services, or they were purchased or donated by a third party, the Campaign must submit an in-kind contribution form completed by the contributor, and report the item as an in-kind contribution by submitting an amendment to Statement 16. *See* also Finding #1.

b) This finding was identified after the Notice of Alleged Violations was sent to the Campaign.

### **Campaign's Response**

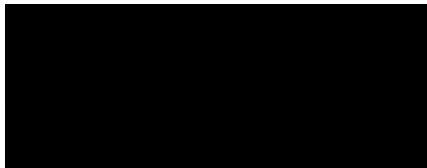
- a) In response to the Draft Audit Report, the Campaign stated that it amended its reporting to report these transactions as contributions. However, the Campaign did not amend its reporting with the CFB. *See* Finding #1.
- b) This finding was identified after the Notice of Alleged Violations was sent to the Campaign.

### **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.

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,

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signature on original  
Jonnathon Kline, CFE

Director of Auditing and Accounting

Date: December 8, 2015

Staff: Hannah Golden



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

**Candidate:** Macron, Mark A (ID:1779-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)		\$77,475.00
3. Total unitemized monetary contributions		\$0.00
4. Total in-kind contributions (Sch D)		\$50.00
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)		\$150,868.38
Expenditure payments	\$146,583.98	
Advance repayments	\$4,284.40	
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)		\$408.00
17. Total receipts adjustment (Sch M - excluding CFB repayments)		\$3,100.00
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		\$75,726.00
Total public funds payment	\$80,190.00	
Total public funds returned	(\$4,464.00)	
21. Total Valid Matchable Claims		\$13,690.00
22. Total Invalid Matchable Claims		\$400.00
23. Total Amount of Penalties Assessed		N/A
24. Total Amount of Penalty Payments		\$0.00
25. Total Amount of Penalties Withheld		\$0.00