



New York City Campaign Finance Board

100 Church Street, 12th Floor, New York, NY 10007
212.409.1800 | www.nycffb.info

Rose Gill Hearn
Chair

Art Chang
Richard J. Davis
Mark S. Piazza
Naomi B. Zauderer
Members

Amy M. Loprest
Executive Director

Sue Ellen Dodell
General Counsel

Via C-Access
August 15, 2016

Jack DeSantis
Mendy for Council
81 Radcliffe Drive
Lincroft, NJ 07738

Dear Jack DeSantis:

Please find attached the New York City Campaign Finance Board’s (“CFB” or “Board”) Final Audit Report for the 2013 campaign of Mendy Mirocznik (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 November 12, 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 must repay the following:

CATEGORY	AMOUNT
Public Funds Repayment	\$14,706.64
Penalties Assessed	\$2,178.00
Total Owed	\$16,884.64

The full amount owed must be paid no later than **September 14, 2016**. Please send a check in the amount of \$16,884.64, 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 **September 14, 2016**, the Candidate’s name and the amount owed will be posted on the CFB’s website. The CFB may also initiate a

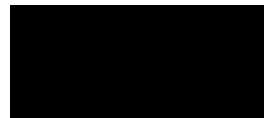
civil action to compel payment. In addition, the Candidate will not be eligible to receive public funds for any future election until the full amount is paid. Further information regarding liability for this debt can be found in the attached Final Board Determination.

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@nycefb.info with any questions about the enclosed report.

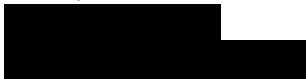
Sincerely,



Signature on original

Sauda S. Chapman
Director of Auditing and Accounting

c: Mendy Mirocznik



Mendy for Council
81 Radcliffe Drive
Lincroft, NJ 07738

Attachments



EC2013 Final Audit Report

Mendy for Council

August 2016

Table of Contents

Table of Contents 2

RESULTS IN BRIEF 3

 Disclosure Findings 3

 Contribution Findings..... 3

 Expenditure Findings..... 3

 Public Matching Funds Findings 4

BACKGROUND 5

SCOPE AND METHODOLOGY 6

AUDIT RESULTS 9

 Disclosure Findings 9

 1. Financial Disclosure Reporting - Discrepancies 9

 2. Disclosure – Possible Subcontractors 11

 Contribution Findings..... 12

 3. Prohibited Contributions – Unregistered Political Committees 12

 4. Undocumented or Unreported In-Kind Contributions 14

 5. Contribution Documentation..... 16

 Expenditure Findings..... 17

 6. Expenditure Documentation 17

 Public Matching Funds Findings 18

 7. Qualified Expenditure Documentation..... 18

 8. Return of Final Bank Balance 19

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 Mendy Mirocznik (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 contributions from unregistered political committees (see Finding #3).
- The Campaign did not disclose in-kind contributions received (see Finding #4).
- The Campaign must provide requested documentation related to reported contributions (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 must provide requested documentation related to reported expenditures (see Finding #6).

Public Matching Funds Findings

The CFB matches contributions from individual New York City residents at a \$6-to-\$1 rate, up to \$1,050 per contributor. The CFB performs reviews to ensure that the correct amount of public funds was received by the Campaign and that public funds were spent in accordance with the Act and Rules. Findings in this section relate to whether any additional public funds are due, or any return of public funds by the Campaign is necessary.

- The Campaign did not document qualified expenditures equal to the amount of public funds it receivedreceived (see Finding #7).
- The Campaign is required to return its final bank balance (see Finding #8).

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: Mendy Mirocznik	Contribution Limit:
ID: 1739	\$2,750
Office Sought: City Council	
District: 50	Expenditure Limit:
	2010–2012: N/A
Committee Name: Mendy for Council	2013 Primary: \$168,000
Classification: Participant	2013 General: N/A
Certification Date: June 10, 2013	
	Public Funds:
Ballot Status: Primary	Received: \$91,970
Primary Election Date: September 10, 2013	Returned: \$0
Party: Democratic, Working Families	
	Campaign Finance Summary:
	http://bit.ly/1yS2WPL

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 amendments to reporting made by the Campaign in response. The Campaign was subsequently informed of its alleged violations and obligation to repay public funds, 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 must repay public funds and 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. 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
Northfield Bank	XXXXXX3478	Checking	Apr 2013 – Jun 2015
Litle & Co.	XXX3218	Merchant	May 2013 – Jul 2015
Act Blue ¹	XXX3218	Payment Gateway	May 2013 – Jun 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.

a) The Campaign must provide the bank statements listed below:

BANK	ACCOUNT #	STATEMENT PERIOD
Act Blue	XXX3218	Inception – Apr 2013 Jul 2013 – Present

b) The Campaign did not report the following transaction that appears on its bank statements:

ACCOUNT #	NAME	CHECK NO./ TRANSACTION	PAID DATE	AMOUNT
XXXXXX3478	Unknown	Returned Deposited Item	04/30/13	\$175.00

¹ This account is the payment gateway linked to the Litle & Co. merchant account.

Previously Provided Recommendation

- a) The Campaign must provide all pages of the requested bank statements.
- b) The Campaign must amend its disclosure statements to report these transactions. The Campaign must also provide documentation for each transaction. Because bank statements provide limited information about a transaction, the Campaign should review invoices or other records to obtain all of the information necessary to properly report the transaction.

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 16.²

Campaign's Response

- a) In response to the Draft Audit Report, the Campaign stated that it was unable to provide the requested Act Blue statements because there was no activity during the periods requested. The Campaign provided a spreadsheet from its Act Blue account that shows the activity from May 2013 through August 2013. However, the Campaign did not provide an official document from the merchant confirming that no activity occurred during the date range requested. In response to the Notice of Alleged Violations and Recommended Penalties, the Campaign stated that it was providing Act Blue Fee Reports for the period requested, however the documents provided were Vantiv (formerly Litle & Co.) merchant statements from May 2013 through July 2015.
- b) In response to the Draft Audit Report, the Campaign stated that the unreported transaction was a stopped payment for a monetary contribution from Jonathan Kaiman, reported as Transaction ID 8/M/R0000216. The Campaign also provided documentation from Northfield bank for a stopped payment by Jonathan Kaiman on April 30, 2013. However, a review of the bank statement shows there were two returned checks in April 2013, one on April 19, 2013, and the other occurring on April 30, 2013. Only one was reported (Transaction ID 8/M/R0000216), with the reported refund date of April 19, 2013. The April 30, 2013 returned check remains unreported. *See* also Finding #5.

² If the Campaign amends its reporting with the CFB, it must also submit amendments to the New York State Board of Elections.

Board Action

- a) The Board found the Campaign in violation, but did not assess a penalty.
- b) The Board has taken no further action on this matter other than to make it 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).

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
Pitta Bishop Del Giorno & Giblin	\$48,700.00

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) 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

The Campaign submitted a Subcontractor Disclosure Form from Pitta Bishop Del Giorno & Giblin LLC that disclosed the following subcontractors as having subcontracted more than \$5,000 worth of goods or services: Register Lithographers, Westerleigh Concepts, Zak Deardoff and Michael Oliva. The form did not include the amounts subcontracted and an accompanied note stated that Pitta Bishop Del Giorno & Giblin LLC considers this, "confidential proprietary information." The Campaign failed to amend its disclosure statements to report subcontractor information.

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 – 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) The Campaign accepted contributions from unregistered political committees in the following instances:

CONTRIBUTIONS FROM UNREGISTERED POLITICAL COMMITTEES				
NAME	STATEMENT/ SCHEDULE/ TRANSACTION	INVOICE DATE/ RECEIVED DATE	AMOUNT	NOTE
Life of the Party PAC	Unreported	09/09/13	\$520.00	(1)
NYS Democratic Committee	10/F/R0000618	07/17/13	\$1,752.48	(2)

(1) On June 27, 2014, the Campaign received a notice from the CFB referencing this transaction. In its response dated August 1, 2014, the Campaign stated that this transaction was an unreported outstanding liability. As the Campaign did not provide documentation of the reimbursement, this transaction is considered an in-kind contribution from an unregistered political committee. *See* Exhibit I.

(2) *See* also Finding #4.

b) In response to a finding in the Draft Audit Report for lack of office expenditures, the Campaign stated that it printed flyers using the supplies of the Democratic Committee of Richmond County. The Campaign calculated its share of the supplies used to be \$51.11 and provided an invoice from the Democratic Committee of Richmond County for this amount, dated June 18, 2013. The Campaign did not report this expenditure during the election and only paid the invoice before submitting its response to the Draft Audit Report. This is considered a refunded in-

kind contribution from the Democratic Committee of Richmond County, an unregistered political committee.

Previously Provided Recommendation

a) The Campaign must address each 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.
- If the prohibited contribution results from an uncleared transaction that has been considered to be an in-kind contribution, the Campaign may provide proof of payment (such as a copy of the front and back of the cancelled expenditure check and/or the associated bank statement showing that the payment was made). If the prohibited source was not paid for the reported expenditure, the Campaign must issue a payment 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 amount of the expenditure.

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

b) This finding was identified as a result of the Campaign's response to the Draft Audit Report dated October 31, 2014.

Campaign's Response

a) In response to the Draft Audit Report, the Campaign provided a copy of the certified check to Life of the Party PAC dated September 19, 2014. In response to a previous post-election request for information regarding the palm card that was identified by CFB staff as an unreported expenditure, the Campaign had stated that the expenditure was an unreported outstanding liability and provided a copy of an invoice dated July 16, 2014 for the palm card. The Campaign did not report this as an outstanding liability at that time. Moreover, the Campaign did not explain why there was a significant span of time between the production of the palm card and the provision of the invoice to the Campaign. In addition, the invoice was not provided to the Campaign until the issue was discovered by CFB staff and brought to the attention of the Campaign. As a result, this transaction is considered an in-kind contribution from Life of the Party PAC, an unregistered political committee, which the Campaign refunded prior to the Draft Audit Report deadline.

In response to the Draft Audit Report, the Campaign stated that the order from the NYS Democratic Committee was never completed and the Campaign voided the check and deleted the transaction. However, the Campaign had previously provided a copy of a contract between the Campaign and the NYS Democratic Committee, signed by a representative from the Campaign, which indicates that the Campaign requested and had the need for access to the voter software. The Campaign failed to provide documentation or information demonstrating that it was not provided access to this data.

In response to the Notice of Alleged Violations and Recommended Penalties, the Campaign stated it did not have an additional response to these findings.

b) This finding was identified as a result of the Campaign's response to the Draft Audit Report dated October 31, 2014. In response to the Notice of Alleged Violations and Recommended Penalties, the Campaign stated it did not have a response to this finding.

Board Action

a) The Board found the Campaign in violation and assessed \$2,127 in penalties.

b) The Board found the Campaign in violation and assessed \$51 in penalties.

4. 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).

The Campaign reported the following expenditure. However, the reported payment for the expenditure is not present on any of the bank statements provided by the Campaign, nor is it reported as an outstanding liability. As a result, the Campaign's reporting and documentation indicate that a third party paid for this transaction, 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	NOTE
NYS Democratic Committee	1017	10/F/R0000618	07/17/13	\$1,752.48	(1)

(1) This may also be a prohibited unregistered political committee contribution. *See* Admin. Code §§ 3-703(1)(k), 3-707; Rule 1-04(d). *See* also Finding #3a.

Previously Provided Recommendation

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.

Campaign's Response

In response to the Draft Audit Report, the Campaign stated that the order from the NYS Democratic Committee was never completed and the Campaign voided by the check and deleted the transaction. However, the Campaign had previously provided a copy of a contract between the Campaign and the NYS Democratic Committee, signed by a representative from the Campaign, which indicates that the Campaign requested and had the need for access to the voter software. The Campaign failed to provide documentation or information demonstrating that it was not provided access to this data.

Board Action

The Board has taken no further matter on this matter other than to make it a part of the Candidate's record with the Board. *See* Finding #3 a).

5. Contribution Documentation

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

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

NAME	TRANSACTION TYPE	STATEMENT/ SCHEDULE/ TRANSACTION	INCURRED/RECEIVED/ REFUNDED/PAID DATE	AMOUNT	NOTE
Unknown	Receipt Adjustment	Unreported	04/30/13	\$175.00	(1)

(1) *See* also Finding #1b.

Previously Provided Recommendation

The Campaign must submit documentation for each transaction listed above.

Campaign's Response

The Campaign stated that the receipt adjustment above was the stopped payment for the contribution from Jonathan Kaiman, reported as Transaction ID 8/M/R0000216. However, a review of the bank statement shows there were two returned checks that month, one on April 19, 2013 and the other on April 30, 2013. The Campaign had initially provided a piece of documentation (a check returned to Jonathan Kaiman on April 30, 2013) with the Initial Document Request and identified the document with the reported contribution refund dated April 19, 2013 (Transaction ID 8/M/R0000216). The Campaign has documented Transaction ID 8/M/R0000216 but the document shows that check 1377 from Jonathan Kaiman was the check that was returned on April 30, 2013 not April 19, 2013. The Campaign has failed to document the April 19, 2013 receipt adjustment and it is unclear whether that transaction was an additional receipt adjustment to Jonathan Kaiman or a returned check to another contributor that was misreported.

Board Action

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

Expenditure Findings

6. Expenditure Documentation

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

The Campaign must provide supporting documentation or an explanation for the reported transaction listed below:

NAME	TRANSACTION TYPE	STATEMENT/SCHEDULE/TRANSACTION	INCURRED/RECEIVED/REFUNDED/PAID DATE	AMOUNT
Herald Strategies, LLC	Expenditure	13/F/R0000807	09/24/13	\$1,700.00

Previously Provided Recommendation

The Campaign must submit documentation, or explanations as indicated, for each listed transaction.

Campaign's Response

In response to the Draft Audit Report, the Campaign provided an invoice dated September 24, 2013, from Herald Strategies that had been previously submitted by the Campaign for expenditures to two individuals ("Sallazzo" for \$1,500 and Jackie Rosenberg for \$200). The invoice does not describe the work performed or state when it was performed, other than "Billing for the Month of: September 2013." Furthermore, the Campaign provided new wage records to support the workers hired by Herald Strategies for primary day work included on other invoices. However, the names and payments listed on the wage records provided by Herald Strategies do not match the names or amounts on the invoice for Transaction ID 13/F/R0000807. In response to the Notice of Alleged Violations and Recommended Penalties, the Campaign provided a confirmation email from Warren Cohn at Herald Strategies confirming that the invoice referred to work on primary day and that the notation included on the invoice that made it appear to be a preliminary estimate versus an actual invoice was only a template that Mr. Cohn failed to edit. The Campaign failed to provide wage records for the individuals that appear on this invoice and therefore has not fully documented the expenditure, however the Campaign has demonstrated that this was a primary election expenditure despite the date on the invoice.

Board Action

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

Public Matching Funds Findings

7. Qualified Expenditure Documentation

Public funds may only be used for “qualified” expenditures by a candidate’s principal committee to further the candidate’s nomination or election during the calendar year in which the election is held. Expenditures that are not considered qualified include, but are not limited to, undocumented or unreported expenditures, payments to the candidate or the candidate’s relatives, payments in cash, contributions to other candidates, gifts, expenditures for petition defense or litigation, and advances except individual purchases of more than \$250. *See* Admin. Code § 3-704; Rule 1-08(g). Participants must return public funds, or may be limited in the amount of public funds they are eligible to receive post-election if they have not documented sufficient qualified expenditures. *See* Admin. Code § 3-710(2)(b); Rule 5-03(d).

Campaigns are required to obtain and maintain contemporaneous records that enable the CFB to verify that expenditures were qualified. *See* Admin. Code § 3-703(1)(d), (g); Rule 4-01. These records may include cancelled checks (front and back) and bills for goods or services. Bills must include the date the vendor was hired or the date the goods or services were received, the vendor’s name and address, a detailed description of the goods or services, and the amount.

The Rules provide guidance for situations where contemporaneous records are either missing or incomplete. *See* Rule 4-01(a). First, a campaign must attempt to obtain a duplicate or more complete record from the vendor. If that is not possible, a campaign may modify an existing record or create a new record which must clearly identify the record as modified or recreated. In addition, any modified or recreated record must be accompanied by a notarized statement explaining the reason for and circumstances surrounding the record. The statement must be from a campaign representative who has firsthand knowledge of the recreated document and why the original document is not available or insufficient. Upon review of the non-contemporaneous record and statement, the CFB may still find the records are not sufficient to adequately document the transaction.

The Campaign received \$91,970.00 in public funds for the 2013 elections. Previously, CFB staff requested documentation to demonstrate that public funds were used for qualified expenditures. Based on all the records submitted, the Campaign has provided sufficient documentation for \$79,873.07 in qualified expenditures.

If the Campaign does not document an additional \$12,096.93 as qualified, the Campaign must repay this amount to the Public Fund. However, based on other reviews, the Campaign has an additional repayment obligation (see Finding #8).

Previously Provided Recommendation

Any transaction marked with a “Q” is considered a qualified expenditure and no additional documentation or information is required. Transactions marked “NQ” cannot be qualified, for reasons such as a payment to a family member or a payment made in cash, and additional documentation will not make them qualified. If the Campaign disagrees, it must provide an explanation and documentation. All other transactions are marked with a code that explains what is missing or inadequate. The Code Key is located at the end of the list.

The list of transactions is sorted by amount, starting with the largest expenditures (disbursements followed by outstanding liabilities and advances greater than \$250, if applicable). If a transaction has more than one code, the Campaign must address all codes before that expenditure may be considered qualified. The Campaign must provide explanations and/or documentation where requested (copies of bills, detailed invoices, consulting agreements, work contracts, credit card statements, cancelled checks, etc., or recreated/modified records along with the required statements, as instructed above). In some cases, the Campaign may find it useful to supplement an invoice or other documentation already provided with evidence of work performed and/or a more detailed description of tasks performed or products received. In addition, the Campaign may need to submit amended disclosure statements to correct errors in its reporting of expenditures.

The Campaign must return a copy of the Qualified Expenditure Sample (included in the Draft Audit Report) with its response. All documents submitted to the CFB must be labeled with the corresponding Transaction IDs.

Campaign’s Response

In response to the Draft Audit Report and Notice of Recommended Public Funds Repayment Notice, the Campaign provided additional documentation that reduced the amount of the Campaign’s repayment obligation.

Board Action

The Board determined that the Campaign must repay at least \$12,096 to the Public Fund (\$91,970 in public funds received less \$79,873.07 in documented qualified expenditures). The Candidate is jointly and severally responsible for repaying \$9,286 of this amount. However, based on other reviews, the Campaign has an additional repayment obligation (see Finding #8).

8. Return of Final Bank Balance

Campaigns are required to return excess public funds after the election. *See* Admin. Code § 3-710(2)(c); Rule 5-03(e). Public funds are only intended to be used for campaign expenditures, and not every campaign will use all of the public funds it received. This may occur when additional

contributions were received or a campaign spent less than anticipated. To ensure that excess public funds are not wasted, until excess public funds have been repaid the only disbursements allowed are those for the preceding election and routine post-election expenditures. Routine post-election expenditures are those involving nominal cost associated with winding up a campaign and responding to the post-election audit. *See* Rule 5-03(e)(2)(i), (ii).

In response to the Notice of Recommended Public Funds Repayment, the Campaign provided bank statements showing a June 30, 2015 bank balance of \$14,706.64.

However, based on other reviews, the Campaign has an additional repayment obligation (see Finding #7).

Previously Provided Recommendation

The Campaign must respond to all findings in this Draft Audit Report, including providing additional bank statements if requested. The Campaign must repay the final bank balance above with a check payable to the “New York City Election Campaign Finance Fund.” If the Campaign disagrees with the amount, it must provide documentation and explanation to show why the amount is not correct. The Campaign may reduce the amount it must return to the Public Fund by proving that outstanding loans or outstanding liabilities timely reported on Statement 16 and not previously documented are still outstanding.

Campaign’s Response

In response to the Draft Audit Report, the Campaign provided bank statements through September 30, 2014 showing a bank balance of \$26,956.50. The Campaign provided a written statement stating it would reserve its response until the final bank balance is calculated.

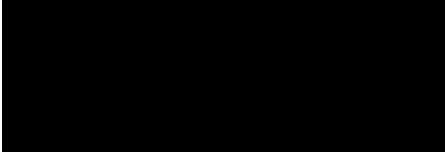
In response to the Post-Election Repayment Notice, the Campaign provided bank statements through June 30, 2015 showing the final bank balance to be \$14,706.64.

Board Action

The Board determined that the Campaign must repay \$14,706.64 to the Public Fund.

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,



Signature on original

Sauda S. Chapman

Director of Auditing and Accounting

Date: August 15, 2016

Staff: Danielle Willemin, CFE

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

Candidate: Mirocznik, Mendy (ID:1739-P)**Office:** 5 (City Council)**Election:** 2013

1. Opening cash balance (All committees)		\$0.00
2. Total itemized monetary contributions (Sch ABC)		\$39,259.00
3. Total unitemized monetary contributions		\$0.00
4. Total in-kind contributions (Sch D)		\$800.00
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)		\$94,159.48
Expenditure payments	\$91,319.27	
Advance repayments	\$2,840.21	
9. Total unitemized expenditures		\$0.00
10. Total transfers-In (Sch G)		\$0.00
Type 1	\$0.00	
Type 2a	\$0.00	
Type 2b	\$0.00	
11. Total transfers-out (Sch H)		\$0.00
Type 1	\$0.00	
Type 2a	\$0.00	
Type 2b	\$0.00	
12. Total loans received (Sch I)		\$0.00
13. Total loan repayments (Sch J)		\$0.00
14. Total loans forgiven (Sch K)		\$0.00
15. Total liabilities forgiven (Sch K)		\$0.00
16. Total expenditures refunded (Sch L)		\$0.00
17. Total receipts adjustment (Sch M - excluding CFB repayments)		\$1,280.00
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		\$91,970.00
Total public funds payment	\$91,970.00	
Total public funds returned	\$0.00	
21. Total Valid Matchable Claims		\$19,781.00
22. Total Invalid Matchable Claims		\$4,178.00
23. Total Amount of Penalties Assessed		\$2,178.00
24. Total Amount of Penalty Payments		\$0.00
25. Total Amount of Penalties Withheld		\$0.00

Exhibit I

Mendy for Council

Unregistered Political Committee In-Kind Contribution – Life of the Party PAC

(see Finding #3a)

INVOICE

Life of The Party PAC

DATE: JULY 16, 2014

TO Mendy for Council
2 Teleport Drive
Staten Island, N.Y. 10311

ATTN: Jack A. DeSantis, Jr. CPA

DESCRIPTION	PAYMENT TERMS
Share of Palm Card with Scott Stringer and Lou Liedy	Due on receipt

DESCRIPTION	TOTAL
<p>NOTE: This invoice is for Mendy Mirocznik's shared cost of a palm card with Scott Stringer and Lou Liedy, as documented in Branford Communications Invoice 4141 on 9/9/2013. Stringer's share was 62.5 percent, Mendy's 25 percent, and Liedy's 12.5 percent, based on total space covered on the mailer.</p>	
<p>Total Cost of Palm Cards</p>	\$2,080.00
<p>Mendy's 25 percent</p>	\$520.00
<p>TOTAL DUE</p>	\$520.00

PLEASE MAKE ALL CHECKS PAYABLE TO "LIFE OF THE PARTY"

THANK YOU!