



**New York City Campaign Finance Board**

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Via C-Access  
May 17, 2016

Kenneth M. Coughlin  
Mel 2013



Dear Kenneth M. Coughlin:

Please find attached the New York City Campaign Finance Board's ("CFB" or "Board") Final Audit Report for the 2013 campaign of Mel Wymore (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 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. 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. We look forward to receiving a timely response to this report. Please call the Audit Unit at 212-409-1800 with any questions regarding specific findings in the report.

Sincerely,



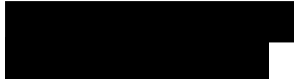
Signature on original

Sauda S. Chapman  
Director of Auditing and Accounting

c: Mel Wymore



Mel 2013



Attachments



# **EC2013 Final Audit Report**

Mel 2013

May 2016

## Table of Contents

Table of Contents .....	2
RESULTS IN BRIEF .....	3
Disclosure Findings .....	3
Contribution Findings.....	3
BACKGROUND.....	4
SCOPE AND METHODOLOGY .....	5
AUDIT RESULTS .....	8
Disclosure Findings .....	8
1. Financial Disclosure Reporting - Discrepancies.....	8
2. Prohibited Contributions – Corporate/Partnership/LLC .....	11

## **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 Mel Wymore (the “Campaign”) indicate findings of non-compliance with the Campaign Finance Act (the “Act”) and Board Rules (the “Rules”) as detailed below:

### ***Disclosure Findings***

Accurate public disclosure is an important part of the CFB’s mission. Findings in this section relate to the Campaign’s failure to completely and timely disclose the Campaign’s financial activity.

- The Campaign did not report or inaccurately reported financial transactions to the Board (see Finding #1).

### ***Contribution Findings***

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

- The Campaign accepted contributions from prohibited sources (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: Mel Wymore	Contribution Limit:
ID: 1528	\$2,750
Office Sought: City Council	
District: 06	Expenditure Limit:
	2010–2012: \$45,000
Committee Name: Mel 2013	2013 Primary: \$168,000
Classification: Participant	2013 General: N/A
Certification Date: June 07, 2013	
	Public Funds:
Ballot Status: Primary	Received: \$92,400.00
Primary Election Date: September 10, 2013	Returned: \$3,651.87
Party: Democratic	
	Campaign Finance Summary:
	<a href="http://bit.ly/1rkRxpc">http://bit.ly/1rkRxpc</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 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 bank reconciliation to the Campaign on April 10, 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. Because the Campaign reported that more than 25% of the dollar amount of its total contributions were in the form of credit card contributions—or had a variance between the total credit card contributions reported and the credits on its merchant account statements of more than 4%—we reconciled the transfers on the submitted merchant account statements to the deposits on the bank account statements.

As part of our reconciliation of reported activity to the bank statements the Campaign provided, we determined whether the Campaign properly disclosed all bank accounts. We also determined if the Campaign filed disclosure statements timely and reported required activity daily during the two weeks before the election. Finally, we reviewed the Campaign's reporting to ensure it disclosed required information related to contribution and expenditure transactions, such as intermediaries and subcontractors.

To determine if the Campaign adhered to contribution limits and prohibitions, we conducted a comprehensive review of the financial transactions reported in the Campaign's disclosure statements. Based on the Campaign's reported contributions, we assessed the total amount contributed by any one source and determined if it exceeded the applicable limit. We also determined if any of the contribution sources were prohibited. We reviewed literature and other documentation to determine if the Campaign accounted for joint activity with other campaigns.

To ensure that the Campaign disbursed funds in accordance with the Act and Rules, we reviewed the Campaign's reported expenditures and obtained documentation to assess whether funds were spent in furtherance of the Candidate's nomination or election. We also reviewed information from the New York State Board of Elections and the Federal Election Commission to determine if the Candidate had other political committees active during the 2013 election cycle. We determined if the Campaign properly disclosed these committees, and considered all relevant expenditures made by such committees in the assessment of the Campaign's total expenditures.

We requested records necessary to verify that the Campaign's disbursement of public funds was in accordance with the Act and Rules. Our review ensured that the Campaign maintained and submitted sufficiently detailed records for expenditures made in the election year that furthered the Candidate's nomination and election, or "qualified expenditures" for which public funds may be used. We specifically omitted expenditures made by the Campaign that are not qualified as defined by the Campaign Finance Act § 3-704.

We also reviewed the Campaign's activity to ensure that it complied with the applicable expenditure limits. We reviewed reporting and documentation to ensure that all expenditures—including those not reported, or misreported—were attributed to the period in which the good or service was received, used, or rendered. We also reviewed expenditures made after the election to determine if they were for routine activities involving nominal costs associated with winding up a campaign and responding to the post-election audit.

To ensure that the Campaign received the correct amount of public funds, and to determine if the Campaign must return public funds or was due additional public funds, we reviewed the Campaign's eligibility for public matching funds, and ensured that all contributions claimed for match by the Campaign were in compliance with the Act and Rules. We determined if the Campaign's activity subsequent to the pre-election reviews affected its eligibility for payment. We also compared the amount of valid matching claims to the amount of public funds paid pre-election and determined if the Campaign was overpaid, or if it had sufficient matching claims, qualified expenditures, and outstanding liabilities to receive a post-election payment. As part of this review, we identified any deductions from public funds required under Rule 5-01(n).

We determined if the Campaign met its mandatory training requirement based on records of training attendance kept throughout the 2013 election cycle. Finally, we determined if the Campaign submitted timely responses to post-election audit requests sent by the CFB.

Following an election, campaigns may only make limited winding up expenditures and are not going concerns. Because the activity occurring after the post-election audit is extremely limited,



the audit focused on substantive testing of the entire universe of past transactions. The results of the substantive testing served to establish the existence and efficacy of internal controls. The CFB also publishes and provides to all campaigns guidance regarding best practices for internal controls.

To determine if contributors were prohibited sources, we compared them to entities listed in the New York State Department of State's Corporation/Business Entity Database. Because this was the only source of such information, because it was neither practical nor cost effective to test the completeness of the information, and because candidates could provide information to dispute the Department of State data, we did not perform data reliability testing. To determine if reported addresses were residential or commercially zoned within New York City, we compared them to a database of addresses maintained by the New York City Department of Finance. Because this was the only source of such data available, because it was not cost effective to test the completeness of the information, and because campaigns had the opportunity to dispute residential/commercial designations by providing documentation, we did not perform data reliability testing.

In the course of our reviews, we determined that during the 2013 election cycle a programming error affected C-SMART, the application created and maintained by the CFB for campaigns to disclose their activity. Although the error was subsequently fixed, we determined that certain specific data had been inadvertently deleted when campaigns amended their disclosure statements and was not subsequently restored after the error was corrected. We were able to identify these instances and did not cite exceptions that were the result of the missing data or recommend violations to the Board. The possibility exists, however, that we were unable to identify all data deleted as a result of this error.

The CFB's Special Compliance Unit investigated any complaints filed against the Campaign that alleged a specific violation of the Act or Rules. The Campaign was sent a copy of all formal complaints made against it, as well as relevant informal complaints, and was given an opportunity to submit a response.

The Campaign was provided with a preliminary draft of this audit report and was asked to provide a response to the findings. The Campaign responded, and the CFB evaluated any additional documentation provided and/or amendments to reporting made by the Campaign in response. The Campaign was subsequently informed of its alleged violations and 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 responses, CFB staff determined that 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 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
Apple Bank	XXXXXX9812	Checking	Nov 2011 – Oct 2015
Chase Paymentech	XXXXXX4807	Merchant	Dec 2011 – Oct 2013
American Express	XXXXXX8886	Merchant	Jan 2012 – Oct 2013; Jun 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.

a) The Campaign did not report the transactions listed below:

ACCOUNT #	NAME	CHECK NO./ TRANSACTION	PAID DATE	AMOUNT
XXXXXX9812	ATM Withdrawal	Debit	01/23/13	\$160.00
XXXXXX9812	Paymentech	Debit	01/30/13	\$150.00
XXXXXX9812	Allen Tullos	1124	10/25/13	\$100.00
XXXXXX9812	Draft	Debit	01/06/14	\$35.00
<b>Total</b>				<b>\$445.00</b>

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

NAME	CHECK NO./ TRANSACTION	STATEMENT/ SCHEDULE/ TRANSACTION	PAID DATE	AMOUNT
Authorize.net	Debit	6/F/R0000692	12/10/11	\$100.00
Upper West Side Copy Center	Debit	16/F/R0001741	04/19/13	\$11.00
ReachMail	Debit	9/F/R0001108	05/01/13	\$180.00
Upper West Side Copy Center	Debit	16/F/R0001739	06/05/13	\$28.30
Upper West Side Copy Center	Debit	11/F/R0001545	08/16/13	\$18.50
The Campaign Workshop	1114	12/F/R0001539	08/28/13	\$1,019.00
Wymore, Mel	1142	16/F/R0001772	01/11/14	\$200.00
<b>Total</b>				<b>\$1,556.80</b>

c) The Campaign did not properly report the transactions listed below.

NAME	CHECK NO./ TRANSACTION	STATEMENT/ SCHEDULE/ TRANSACTION	PAID DATE	REPORTED AMOUNT	ACTUAL AMOUNT	DIFFERENCE
Rigoletto Pizza	Debit	9/F/R0001211	07/01/13	\$104.25	\$124.25	\$20.00
Lopez Jennifer	1079	9/F/R0001221	07/08/13	\$50.00	\$100.00	\$50.00
The Campaign Workshop	1114	12/F/R0001560	08/27/13	\$1,065.54	\$0.00	-\$1,065.54
The Campaign Workshop	1114	12/F/R0001562	08/27/13	\$1,065.54	\$2,084.54	\$1,019.00
<b>Total</b>						<b>\$23.46</b>

### Previously Provided Recommendation

a) 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.

b) 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.<sup>1</sup>

c) This finding is a result of the Campaign response to the Notice of Alleged Violations and Recommended Penalties.

### **Campaign Response**

a) In response to the Draft Audit Report, the Campaign did not amend its reporting to report these transactions.

b) In response to the Draft Audit Report, the Campaign provided banks statements through September 2014 for Campaign bank account XXXXX9812. However, it did not document that these transactions cleared the bank account.

c) This finding is a result of the Campaign's response to the Notice of Alleged Violations and Recommended Penalties.

### **Board Action**

a-c) 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.

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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.

**2. Prohibited Contributions – Corporate/Partnership/LLC**

Campaigns may not accept, either directly or by transfer, any contribution, loan, guarantee, or other security for a loan from any corporation. This prohibition also applies to contributions received after December 31, 2007 from any partnership, limited liability partnership (LLP), or limited liability company (LLC). *See* New York City Charter §1052(a)(13); Admin. Code §§ 3-703(1)(l), 3-719(d); Rules 1-04(c), (e).

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

PREVIOUSLY REFUNDED CONTRIBUTIONS FROM PROHIBITED SOURCES

NAME	STATEMENT/ SCHEDULE/ TRANSACTION	INCURRED/ RECEIVED/ REFUNDED DATE	AMOUNT	NOTE
Dvoskin, Laurence	5/ABC/R0000699	07/05/12	\$1,000.00	(1)
Asche, Richard M	6/ABC/R0000796	07/19/12	\$200.00	(2)

(1) Although the Campaign reported the contribution as shown, the documentation provided indicates that this contribution was from Cool Guy Music, Inc. After receiving notification from the CFB, the Campaign subsequently deleted this transaction.

(2) Although the Campaign reported the contribution as shown, the documentation provided indicates that this contribution was from the business account of Mr. Asche (Richard M. Asche M. PC).

**Previously Provided Recommendation**

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

**Campaign Response**

In response to the Notice of Alleged Violations, regarding Laurence Dvoskin, the Campaign submitted an email that indicated the Campaign was aware that it received a corporate contribution. The Campaign refunded the contribution promptly upon learning that it was a prohibited contribution. Additionally, regarding the Richard M. Asche transaction, the Campaign stated that they were not aware that they needed to respond to the finding and that it was unaware that “PC” following the name on the check meant “Professional Corporation.”

**Board Action**

The Board has taken no further action other than to make this a part of the Candidates 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,



Signature on original

Sauda S. Chapman

Director of Auditing and Accounting

Date: May 17, 2016

Staff: Melody Lee

Michael Iacono

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

**Candidate:** Wymore, Mel (ID:1528-P)**Office:** 5 (City Council)**Election:** 2013

1. Opening cash balance (All committees)		\$0.00
2. Total itemized monetary contributions (Sch ABC)		\$144,157.50
3. Total unitemized monetary contributions		\$0.00
4. Total in-kind contributions (Sch D)		\$34.45
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)		\$218,363.18
Expenditure payments	\$216,994.49	
Advance repayments	\$1,368.69	
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)		\$7,900.00
18. Total outstanding liabilities (Sch N - last statement submitted)		\$3,100.00
Outstanding Bills	\$3,100.00	
Outstanding Advances	\$0.00	
19. Total advanced amount (Sch X)		\$0.00
20. Net public fund payments from CFB		\$88,749.00
Total public funds payment	\$92,400.00	
Total public funds returned	(\$3,651.00)	
21. Total Valid Matchable Claims		\$31,803.00
22. Total Invalid Matchable Claims		\$3,460.00
23. Total Amount of Penalties Assessed		N/A
24. Total Amount of Penalty Payments		\$0.00
25. Total Amount of Penalties Withheld		\$0.00