



New York City Campaign Finance Board

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Rose Gill Hearn
Chair

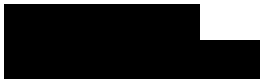
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Amy M. Loprest
Executive Director

Sue Ellen Dodell
General Counsel

Via C-Access
June 16, 2015

Xiao Yun M. Yu
Friends for Peter Koo



Dear Xiao Yun M. Yu:

Please find attached the New York City Campaign Finance Board's ("CFB" or "Board") Final Audit Report for the 2013 campaign of Peter A. Koo (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 with any questions about the enclosed report.

Sincerely,



Jonnathon Kline, CFE
Director of Auditing and Accounting
signature on original

c: Peter A. Koo



Friends for Peter Koo



Attachments



EC2013 Final Audit Report

Friends for Peter Koo

June 2015

Table of Contents

Table of Contents	2
RESULTS IN BRIEF	3
Disclosure Findings	3
Expenditure Findings.....	3
BACKGROUND.....	4
SCOPE AND METHODOLOGY	5
AUDIT RESULTS	7
Disclosure Findings	7
1. Disclosure – Possible Subcontractors	7
2. Disclosure – Reporting of Transferred Funds	8
Expenditure Findings.....	9
3. Candidate Personal Contributions.....	9

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 Peter A. Koo (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 disclose payments made by a vendor to subcontractors (see Finding #1).
- The Campaign did not properly disclose transferred funds (see Finding #2).

Expenditure Findings

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 did not report personal contributions to non-candidate political committees made by the candidate that are attributable to the Campaign (see Finding #3).

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: Peter A. Koo	Contribution Limit:
ID: 1359	\$2,750
Office Sought: City Council	
District: 20	Expenditure Limit:
	2010–2012: N/A
Committee Name: Friends for Peter Koo	2013 Primary: N/A
Classification: Non-Participant	2013 General: N/A
Filer Registration Date: February 23, 2011	
	Public Funds:
Ballot Status: General	Received: N/A
General Election Date: November 5, 2013	Returned: N/A
Party: Democratic, Conservative, Independence	
	Campaign Finance Summary:
	http://bit.ly/1yS1o8n

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.

Prior to the election, we performed preliminary reviews of the Campaign's compliance with the Act and Rules. In January of 2013, we requested all bank statements to date from the Campaign and reconciled the activity on the statements provided to the Campaign's reporting. We then provided the results of this preliminary bank reconciliation to the Campaign on April 19, 2013. After the election, we performed an audit of all financial disclosure statements submitted for the election (see summary of activity reported in these statements at Appendix #1).

To verify that the Campaign accurately reported and documented all financial transactions, we requested all of the Campaign's bank statements and reconciled the financial activity on the bank statements to the financial activity reported on the Campaign's disclosure statements. We identified unreported, misreported, and duplicate disbursements, as well as reported disbursements that did not appear on the Campaign's bank statements. We also calculated debit and credit variances by comparing the total reported debits and credits to the total debits and credits amounts appearing on the bank statements.

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

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

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

determined if the Campaign properly disclosed these committees, and assessed all relevant expenditures made by such committees in the assessment of the Campaign's total expenditures.

Finally, we determined if the Campaign submitted timely responses to post-election audit requests sent by the CFB.

Following an election, campaigns are not going concerns. Because the activity occurring after the post-election audit is extremely limited, the audit focused on substantive testing of the entire universe of past transactions. The results of the substantive testing served to establish the existence and efficacy of internal controls. The CFB also publishes and provides to all campaigns guidance regarding best practices for internal controls.

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

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

The Campaign was provided with a preliminary draft of this audit report and was asked to provide a response to the findings. 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.

AUDIT RESULTS

Disclosure Findings

1. 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
H & C Consulting	\$54,500.00

Previously Provided Recommendation

The Campaign must contact the vendors, 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 responded to the Draft Audit by submitting a Subcontractor Form from H & C Consulting, which stated that the vendor subcontracted more than \$5,000 worth of goods or services to another entity. Although the vendor specified the entity, it did disclose the amount subcontracted. The Campaign did not amend its disclosure statements to report the subcontractor.

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 – Reporting of Transferred Funds

Campaigns must disclose transfers of funds to their current election committee from any other committee of the candidate. In addition, campaigns must accurately disclose the contributions making up the transfers as the last monetary contributions, loans, and other receipts received by the transferor committee before making the transfer.

The Campaign contacted the CFB's Candidate Services Unit on January 9, 2013 for guidance on attributing transferred funds. The CFB informed the Campaign that it should attribute transferred funds on a "last in, first out" basis. As detailed in the guidance document that the Campaign received at that time, contributions that would result in an over-the-limit contribution may only be omitted from the attribution if funds equal or greater than the amount of the contribution remain in the committee account. The Campaign subsequently reported underlying contributions for a \$1,285 transfer of funds from Peter Koo for City Council. On September 12, 2013, the Campaign received a copy of the CFB's analysis of its transfer. The Campaign spoke with CFB staff again on September 17, 2013 and received further instructions on how to correctly attribute the transfer-in. However, the Campaign failed to correct the one contribution identified in the September 12 review as incorrectly attributed. This attribution, reported by the Campaign as constituting part of its transfer of funds, is incorrect because it does not agree with the required "last in, first out" methodology. *See* Exhibit I for a comparison of the contributions reported by the Campaign as constituting its transfer, and the list of contributions to which the Campaign should attribute the transfer.

Previously Provided Recommendation

The Campaign must provide an explanation for the difference between the reported contributions and the CFB's attribution, and include supporting documentation. If applicable, the Campaign must amend its disclosure statements to correctly report the contributions underlying the transfer.

Campaign's Response

The Campaign responded to the Draft Audit by deleting the incorrect transfer-in contribution but failed to amend its reporting to record the correct transaction. As a result, the Campaign has not attributed \$215, of the total \$1,285 transfer-in, to any contributor.

Board Action

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

Expenditure Findings

3. Candidate Personal Contributions

Campaigns are required to report the candidate's personal contributions of \$99 or more to political committees that support candidates in New York City and throughout New York State (except political committees of other candidates). Such contributions are presumptively campaign expenditures, unless the candidate rebuts the presumption. *See* CFB Final Determination No. 2009-1.

Contributions reported to the New York State Board of Elections and the Federal Election Commission by the recipients indicate that the Candidate made contributions that the Campaign should have reported as Candidate Personal Contributions. *See* Exhibit II.

Previously Provided Recommendation

If the Campaign believes that it is not required to disclose the contributions listed on Exhibit II, it must provide an explanation and supporting documentation to demonstrate that:

- The Candidate has a prior personal relationship with the recipient political committee as described in CFB Final Determination No. 2009-1.
- The Candidate has a lengthy history of contributing to the entity at a similar or greater financial level.
- The transaction was a purchase of a good or service rather than a contribution.

If the Campaign cannot provide evidence of any of the scenarios listed above, it must enter the contributions listed on Exhibit II in C-SMART as Candidate Personal Contributions and submit amendments to its disclosure statements to report the transactions.

Campaign's Response

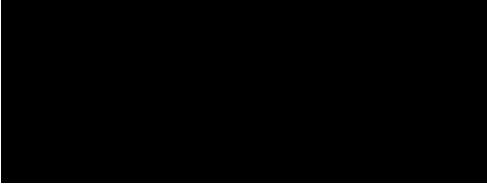
The Campaign responded to the Draft Audit by submitting a narrative arguing that, because the personal contributions were made before the current committee had been registered, those contributions are not required to be reported. However, the Campaign failed to demonstrate either that the Candidate had a history of contributing to the organizations prior to the 2013 election cycle or a long-standing personal relationship with the organizations. Therefore, any contribution made during the 2013 election cycle should have been disclosed as a Candidate Personal 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.

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

Respectfully submitted,



Jonnathon Kline, CFE

Director of Auditing and Accounting
signature on original

Date: June 16, 2015

Staff: Hannah Golden

Christopher Cruzcosa

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

Candidate: Koo, Peter A (ID:1359-NP)**Office:** 5 (City Council)**Election:** 2013

1. Opening cash balance (All committees)		\$0.00
2. Total itemized monetary contributions (Sch ABC)		\$384,648.00
3. Total unitemized monetary contributions		\$0.00
4. Total in-kind contributions (Sch D)		\$154.00
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)		\$253,610.49
Expenditure payments	\$253,047.04	
Advance repayments	\$563.45	
9. Total unitemized expenditures		\$0.00
10. Total transfers-In (Sch G)		\$1,285.00
Type 1	\$0.00	
Type 2a	\$0.00	
Type 2b	\$1,285.00	
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)		\$154.00
16. Total expenditures refunded (Sch L)		\$35.00
17. Total receipts adjustment (Sch M - excluding CFB repayments)		\$10,090.00
18. Total outstanding liabilities (Sch N - last statement submitted)		\$0.00
Outstanding Bills	\$0.00	
Outstanding Advances	\$0.00	
19. Total advanced amount (Sch X)		\$0.00
20. Net public fund payments from CFB		\$0.00
Total public funds payment	\$0.00	
Total public funds returned	\$0.00	
21. Total Valid Matchable Claims		N/A
22. Total Invalid Matchable Claims		N/A
23. Total Amount of Penalties Assessed		N/A
24. Total Amount of Penalty Payments		\$0.00
25. Total Amount of Penalties Withheld		\$0.00

Exhibit I
Friends for Peter Koo
Unreported Committee Transfer In Attributions
(see Finding #2)

Contributor Name	Date	Amount	Notes
Chen, Mao Chi	12/14/2009	\$215.00	(1)

Notes:

(1) Only \$215.00 of the total contribution was considered transferred.

Exhibit II
Friends for Peter Koo
Unreported Political Committee Contributions
 (see Finding #3)

Payee	Source	Date	Amount
EDUCATION & OPPORTUNITY FUND II	FEC	05/14/10	\$1,500.00
QUEENS COUNTY REPUBLICAN COMMITTEE	BOE	12/16/10	\$500.00
Total			<u>\$2,000.00</u>