



New York City Campaign Finance Board

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Via C-Access
October 7, 2016

Wilson Rodriguez
Espinal for City Council
52 Hale Avenue, #2
Brooklyn, NY 11208

Dear Wilson Rodriguez:

Please find attached the New York City Campaign Finance Board's ("CFB" or "Board") Final Audit Report for the 2013 campaign of Rafael L. Espinal, Jr. (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 March 17, 2016 (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 was assessed penalties totaling \$1,409.

The full amount owed must be paid no later than **November 7, 2016**. Please send a check in the amount of \$1,409, 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 **November 7, 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.

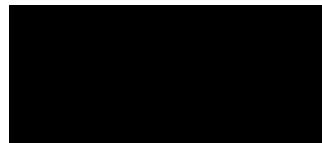
The Campaign may challenge a public funds determination in a petition for Board reconsideration within thirty days of the date of the Final Audit Report as set forth in Board Rule 5-02(a). However, the Board will not consider the petition unless the Campaign submits new information

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

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

Sincerely,

A large black rectangular redaction box covering the signature of Suda S. Chapman.

Signature on Original

Suda S. Chapman
Director of Auditing and Accounting

c: Rafael L. Espinal, Jr.

A black rectangular redaction box covering contact information for Rafael L. Espinal, Jr.

Espinal for City Council
52 Hale Avenue, #2
Brooklyn, NY 11208

Attachments



EC2013 Final Audit Report

Espinal for City Council

October 2016

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RESULTS IN BRIEF

The results of the New York City Campaign Finance Board's ("CFB" or "Board") review of the reporting and documentation of the 2013 campaign of Rafael L. Espinal Jr. (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 file the required daily disclosure statements during the two weeks preceding the 2013 primary election (see Finding #2).
- The Campaign did not disclose payments made by its vendors to subcontractors (see Finding #3).
- The Campaign did not properly disclose transferred funds (see Finding #4).

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 aggregate contributions exceeding the \$250 doing business contribution limit for the 2013 election cycle which it failed to refund, or refunded after the deadline (see Finding #5).
- The Campaign accepted a contribution from a prohibited source (see Finding #6).
- The Campaign accepted an in-kind contribution from an unregistered political committee (see Finding #7).
- The Campaign did not disclose in-kind contributions received (see Finding #8)

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 did not provide requested documentation related to reported expenditures (see Finding #9).

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: Rafael L. Espinal Jr.	Contribution Limit:
ID: 1673	\$2,750
Office Sought: City Council	
District: 37	Expenditure Limit:
	2010–2012: \$45,000
Committee Name: Espinal for City Council	2013 Primary: \$168,000
Classification: Participant	2013 General: \$168,000
Certification Date: June 7, 2013	
	Public Funds:
Ballot Status: Primary, General	Received: \$81,682
Primary Election Date: September 10, 2013	Returned: \$1,609
General Election Date: November 5, 2013	
Party: Democratic	Campaign Finance Summary:
	http://bit.ly/1yRYRLo

SCOPE AND METHODOLOGY

Pursuant to Admin. Code § 3-710(1), the CFB conducted this audit to determine whether the Campaign complied with the Act and Rules. Specifically, we evaluated whether the Campaign:

1. Accurately reported financial transactions and maintained adequate books and records.
2. Adhered to contribution limits and prohibitions.
3. Disbursed funds in accordance with the Act and Rules.
4. Complied with expenditure limits.
5. Received the correct amount of public funds, or whether additional funds are due to the Campaign or must be returned.

Prior to the election, we performed preliminary reviews of the Campaign's compliance with the Act and Rules. We evaluated the eligibility of each contribution for which the Campaign claimed matching funds, based on the Campaign's reporting and supporting documentation. We also determined the Candidate's eligibility for public funds by ensuring the Candidate was on the ballot for an election, was opposed by another candidate on the ballot, and met the two-part threshold for receiving public funds. In January of 2013, we requested all bank statements to date from the Campaign and reconciled the activity on the statements provided to the Campaign's reporting. We then provided the results of this preliminary bank reconciliation to the Campaign on April 26, 2013. After the election, we performed an audit of all financial disclosure statements submitted for the election (see summary of activity reported in these statements at Appendix #1).

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

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

To determine if the Campaign adhered to contribution limits and prohibitions, we conducted a comprehensive review of the financial transactions reported in the Campaign's disclosure

statements. Based on the Campaign's reported contributions, we assessed the total amount contributed by any one source and determined if it exceeded the applicable limit. We also determined if any of the contribution sources were prohibited. We reviewed literature and other documentation to determine if the Campaign accounted for joint activity with other campaigns.

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

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

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

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

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

Following an election, campaigns may only make limited winding up expenditures and are not going concerns. Because the activity occurring after the post-election audit is extremely limited, the audit focused on substantive testing of the entire universe of past transactions. The results of the substantive testing served to establish the existence and efficacy of internal controls. The CFB

also publishes and provides to all campaigns guidance regarding best practices for internal controls.

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

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

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

The Campaign was provided with a preliminary draft of this audit report and was asked to provide a response to the findings. The Campaign responded, and the CFB evaluated any additional documentation provided and/or amendments to reporting made by the Campaign in response. The Campaign was subsequently informed of its alleged violations and obligation to repay public funds, and was given the opportunity to respond. The Campaign responded and the CFB evaluated any additional information provided by the Campaign. CFB staff recommended that the Board determine that the Campaign committed violations subject to penalty. The Campaign chose to contest the CFB staff recommendations. The Board's determinations 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.

OTHER MATTERS

During the 2013 election cycle, Friends of Espinal—another committee of Rafael L. Espinal Jr.—made expenditures. As a result, the CFB attributed \$1,588.11 of the expenditures occurring between December 17, 2012 and May 15, 2013 to the Campaign.

The use of an entity other than the designated principal committee to aid in the election will result in the application of the Act and Board Rules, including the expenditure limit, to the other entity's activity. *See* Admin. Code §§ 3-702(2), (7), 3-703(1)(e); Rules 2-01(a), 1-08(c)(3). Expenditures are presumed to be made for the first election following the day they are made, with the exception of State or local election expenditures made before the first January 12 following the election, or federal election expenditures made before the first January 1 following the election. *See* Rule 1-08(c)(1).

On September 4, 2013, the Campaign was notified that the CFB had preliminarily attributed expenditures made by other committees to the 2013 Campaign, but it did not dispute the attribution.

The Campaign's expenditures—adjusted for relevant factors including spending by other committees—did not result in a finding that the Campaign had exceeded the applicable expenditure limit(s), and as a result the Campaign does not need to respond to this issue. However, candidates are reminded that if committees not reported to be involved in the election make expenditures, the Campaign has the burden of demonstrating that the expenditures were not related to the election.

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
TD Bank	XXXXXX7206	Checking	Dec 2012 – Aug 2014
FDMS Nashville	XXXXXX7886	Merchant	May 2013 – Feb 2014

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

- a) The Campaign did not report the transactions listed below that appear on its bank statements:

Payee	Check No./ Transaction	Date	Amount
Paulin. Amy R.	Transfer-In	10/15/12	\$170.00
TD Bank	Debit	03/27/13	\$175.00
TD Bank	Debit	03/27/13	\$20.00
TD Bank	Debit	05/10/13	\$100.00
Total			\$465.00

* *See* also Finding #4a.

b) The Campaign did not properly report the transaction listed below:

NAME	CHECK NO./ TRANSACTION	STATEMENT/ SCHEDULE/ TRANSACTION	PAID DATE	REPORTED AMOUNT	ACTUAL AMOUNT	DIFFERENCE
NGP VAN, Inc.	Debit	9/F/R0000634	06/03/13	\$147.29	\$126.01	(\$21.28)

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 inaccurately reported transactions, the Campaign must amend its disclosure statements to accurately report the transactions.

Please note that any newly entered transactions that occurred during the election cycle (01/12/10—01/11/14) will appear as new transactions in an amendment to Disclosure Statement 16, even if the transaction dates are from earlier periods. Any transactions dated after the election cycle will appear in disclosure statements filed with the New York State Board of Elections. Also note that the Campaign must file an amendment for each disclosure statement in which transactions are being modified. Once all data entry is completed, the Campaign should run the Modified Statements Report in C-SMART to identify the statements for which the Campaign must submit amendments. The C-SMART draft and final submission screens also display the statement numbers for which the Campaign should file amendments. If the Campaign added any new transactions, it must submit an amendment to Disclosure Statement 16.¹

Campaign's Response

a) In response to the Draft Audit Report, the Campaign stated that the cited unreported transactions "were reported." The Campaign provided Transaction ID numbers for each cited transaction. However, the Transaction IDs provided by the Campaign do not appear on its disclosure statements.

b) The Campaign did not amend its disclosure statement to report the correct amount of the expenditure.

¹ 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 - b) The Board has taken no further action on this matter other than to make this a part of the Candidate's record with the Board.

2. Daily Pre-Election Disclosure – Statements of Contributions/Expenditures

During the 14 days preceding an election, if a candidate: (1) accepts a loan, contribution, or contributions from a single source in excess of \$1,000; or (2) makes aggregate expenditures to a single vendor in excess of \$20,000, the candidate shall report such contributions, loans, and expenditures to the Board in a disclosure, received by the Board within 24 hours of the reportable transaction. *See* Rule 3-02(e). This includes additional payments of any amount to vendors who have received aggregate payments in excess of \$20,000 during the 14-day pre-election period. These contributions and expenditures must also be reported in the Campaign's next disclosure statement.

The Campaign did not file the required daily disclosure to report the following transaction:

EXPENDITURE:				
NAME	STATEMENT/ SCHEDULE/ TRANSACTION	DATE INCURRED	AMOUNT	NOTE
A Better Living Resource Coal	12/F/R0000837	08/28/13	\$28,000.00	(1)

(1) The disclosure was filed 12 days late.

Previously Provided Recommendation

If the Campaign believes it filed the required daily disclosure timely, as part of its response it must submit the C-SMART disclosure statement confirmation email as proof of the submission. The Campaign may provide an explanation if it believes that its failure to file the daily disclosure is not a violation, but it cannot file daily pre-election disclosures now.

Campaign's Response

In response to the Draft Audit Report, the Campaign said the "Invoice was paid & entered on 9/4/14." However, Rule 1-08 defines an expenditure as a disbursement made or liability incurred. Therefore, the Campaign failed to report its liability incurred within the 14 days prior to the election.

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.

3. 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
TV Music & Video	\$12,400.00

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

In response to the Draft Audit Report, the Campaign provided a Subcontractor Form from TV Music & Video, which indicated that a subcontractor, Univision, provided \$18,300 in advertising services. The Campaign also amended its reporting to add the subcontractor information for TV Music & Video's subcontractor, Univision. However, the amount of the services provided by Univision reported was \$10,600 and not \$18,300 as it was indicated on the Subcontractor form.

Board Action

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

4. 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. If transferring funds from a non-covered committee, campaigns must also disclose the expenditures made by the transferor committee in connection with raising the contributions, and provide documentation of each contributor’s authorization to contribute to the current committee. See Admin. Code §§ 3-702(9), 3-703(14); Rules 1-07, 3-03(c)(2), 4-01(b)(8).

a) The Campaign reported underlying contributions for the \$170.00 transfer of funds from Friends of Espinal. However, the contribution reported by the Campaign as constituting its transfer of funds does not agree with the required “last in, first out” methodology. See below for a comparison of the contribution reported by the Campaign as constituting its transfer, and the contribution to which the Campaign should attribute the transfer.

CFB Attribution:

<u>Contributor</u> Name	<u>Date</u>	<u>Amount</u>
Paulin, Amy R.	10/15/12	\$170.00
Total		<u>\$170.00</u>

Campaign Attribution:

<u>Contributor</u> Name	<u>Statement/ Schedule/ Transaction ID</u>	<u>Date</u>	<u>Amount</u>
Espinal, Christian	7/G1/R0000223	12/11/12	\$170.00
Total			<u>\$170.00</u>

b) The Campaign did not report any costs associated with the \$170.00 transfer of funds on December 11, 2012 from Friends of Espinal, the Candidate’s State Assembly committee. See above Finding a).

Previously Provided Recommendation

a) 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.

b) The Campaign must report an expenditure allocation equal to 15% of the funds transferred. Alternatively, the Campaign may itemize the total cost of all expenditures associated with the transferred contributions and submit documentation to substantiate the expenditures made.

Campaign's Response

a) In response to the Draft Audit Report, the Campaign stated, "Christian Espinal contributed over \$170.00 to the Assembly Account and agreed to transfer his contribution to the City Council account. Documentation attached." The Campaign provided a Transfer Authorization Card, signed by Christian Espinal, as well as a deposit slip and bank statement showing the deposit of the transferred funds into the City Council bank account. The Campaign also provided a bank statement for the Friends of Espinal (the Assembly Committee), showing a debit of the funds. However, the Campaign failed to follow the required "last in, first out" methodology.

b) In response to the Draft Audit Report, the Campaign did not amend its reporting to disclose any costs associated with the transferred funds. The Campaign stated, "There was no costs incurred in the transfer. It was free." The Campaign's response is inadequate because a Campaign must report costs associated raising and administering transferred funds. See Admin. Code § 3-703(14); Rule 1-08(o).

Board Action

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

Contribution Findings

5. Prohibited Contributions – Contributions Over The Doing Business Limit

Campaigns may not accept contributions from individuals who have business dealings with the city in excess of the applicable doing business contribution limit for the entire election cycle. See Admin. Code §§ 3-703(1-a), (1-b), 3-719(2); Rules 1-04 (c)(l), (h). Individuals considered to have business dealings with the city are listed in the "Doing Business Database." Upon notification by the CFB, the Campaign was given 20 days in which to issue a refund to the contributor without a violation or penalty.

The Campaign did not refund contributions within the 20-day deadline in the following instance:

CONTRIBUTIONS OVER THE DOING BUSINESS LIMIT REFUNDED LATE							
NAME	STATEMENT/ SCHEDULE/ TRANSACTION	RECEIVED/ REFUNDED DATE	CONTRIBUTION NOTICE/ REFUND DUE DATE	AMOUNT	AMOUNT OVER THE LIMIT	FINDING	NOTE
Norris, Keith	8/ABC/R0000233	03/19/13	06/04/13	\$300.00	\$50.00		
Norris, Keith	9/M/R0000636	07/05/13	06/24/13	(\$50.00)		11 days late	(1)

(1) The Campaign issued a refund using a committee check dated June 18, 2013, but the Campaign's bank statement indicates the refund did not clear the account until July 5, 2013.

Previously Provided Recommendation

The Campaign did not issue the refund of the over-the-limit amount within the required 20 days of receiving notification from the CFB.

- If the Campaign believes that the contributor was incorrectly included on the notification, the Campaign must provide documentation demonstrating that the contributor is not the individual listed in the Doing Business Database.
- If the Campaign believes that the contributor was incorrectly included in the Doing Business Database on the date of the contribution, the contributor can apply to be removed from the Database retroactive to the date of the contribution. The CFB does not maintain the Doing Business Database. The contributor and/or entity with which s/he is associated must contact the Mayor's Office of Contract Services—which maintains the Doing Business Database—to request removal, and the Campaign must notify the CFB that the individual has filed for removal. The CFB will rely on the updated Doing Business Database to determine whether the individual was doing business as of the date of the contribution.

Campaign's Response

In response to the Draft Audit Report, the Campaign stated that the "Check was submitted to Mr. Norris on a timely manner, but he failed to deposit it within the 20 days. The Campaign had no control of when Mr. Norris deposited the funds." The Campaign provided a copy of the letter it sent with the refund check, as well as the front and back of the refund check with its response.

In response to the Notice of Alleged Violations and Recommended Penalties, the Campaign stated, "The Committee acted in good faith in its effort to refund the contribution in a timely manner and mailed Mr. Norris the check with a letter asking for prompt deposit. Unfortunately, the committee could not control when Mr. Norris deposited the check and it was therefore deposited after the 20 day deadline." However, the Campaign was instructed to issue the refund using a bank or certified checked to ensure the funds would be disgorged from the Campaign's bank account within 20 days.

Board Action

The Board found the Campaign in violation and assessed \$250 in penalties.

6. 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).

The Campaign accepted a contribution from an entity listed on the New York State Department of State’s website as corporations, partnerships, and/or LLCs in the following instance:

CONTRIBUTIONS FROM PROHIBITED SOURCES				
NAME	STATEMENT/ SCHEDULE/ TRANSACTION	RECEIVED DATE	AMOUNT	NOTE
Get Out The Vote	Unreported	09/10/13	\$50.00	(1)

(1) The invoice provided for this transaction indicates that a \$50.00 Set up Fee was waived.

Previously Provided Recommendation

This finding was identified as a result of the Campaign’s response to the Notice of Alleged Violation. On February 2, 2016, the Campaign was sent a Revised Notice of Alleged Violations and Recommended Penalties and the following recommendation was provided:

The Campaign may be able to reduce this penalty by: 1) providing information and documentation showing that this was a routine discount available to all customers, or 2) demonstrating that it has refunded \$50 to Get Out The Vote.

Campaign’s Response

In response to the Revised Notice of Alleged Violation dated February 2, 2016, the Campaign stated that it will not contest this finding. The Campaign provided an invoice and payment for automated phone calls, however it did not explain the reason for the discount.

Board Action

The Board found the Campaign in violation and assessed \$300 in penalties.

7. 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.

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

CONTRIBUTIONS FROM UNREGISTERED POLITICAL COMMITTEES				
NAME	STATEMENT/ SCHEDULE/ TRANSACTION	RECEIVED DATE	AMOUNT	NOTE
Friends of Gonzalez	Unreported	N/A	\$167.05	(1)
54 th Democratic Club	Unreported	N/A	\$92.37	(1)

(1) The Campaign provided a United States Postal Service (USPS) transaction summary (see Exhibit Ia) which indicates that the Campaign used postage meter services totaling \$17,344.52. The Campaign reported six expenditures to Wyckoff Heights Station US Post Office, totaling \$17,443.90. However, in response to the Notice of Alleged Violations and Recommended Penalties, the Campaign stated that the “Campaign made 6 deposits for 4 campaign mailers.” One expenditure (Transaction ID 12/F/R0000843) for \$358.80 was not a deposit to the postage meter account as it is not included in the USPS transaction summary. The Campaign also provided a receipt showing that this expenditure was used to purchase stamps (see Exhibit Ib). The USPS transaction summary indicates deposits totaling \$17,085.10. As a result, the Campaign’s reporting and documentation indicate that a third party paid for \$259.42 (\$17,344.52 – \$17,085.10) of the services used by the Campaign. Documentation obtained by the CFB indicates that Charvy Gonzalez, candidate for the 53rd Assembly District, also used the same postage meter account. Review of Gonzalez’s expenditures reported to the BOE show that the initial deposit of \$3,400.00 to the permit was made by him and subsequently, the Friends of Gonzalez campaign used services totaling \$3,232.95. The difference of \$167.05 (\$3,400.00 - \$3,232.95) was used by Espinal campaign and is therefore an unreported in-kind contribution from Friends of Gonzalez. The remaining \$92.37 (\$259.42 - \$167.05) is considered an unreported in-kind contribution from a prohibited source, 54th Democratic club, the owner of the postage meter account.

Previously Provided Recommendation

This finding was identified as a result of the Campaign’s response to the Notice of Alleged Violations and Recommended Penalties.

Campaign's Response

In response to the Revised Notice of Alleged Violation dated February 2, 2016, the Campaign stated it will not contest this finding.

Board Action

The Board found the Campaign in violation and assessed \$759 in penalties.

8. 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).

a) The invoices for the expenditures listed below indicate that the Campaign received a discount in connection with the goods/services being provided.

NAME	STATEMENT/ SCHEDULE/ TRANSACTION	INVOICE DATE	AMOUNT	DISCOUNTED AMOUNT
*Get Out The Vote	16/F/R0000948	09/10/13	\$694.14	\$50.00

*This may also be a prohibited corporate contribution. *See* Admin. Code §§ 3-703(1)(l), 3-719(2)(b); Rule 1-04(e). *See* also Finding #6.

b) On the day of the primary election, CFB observers interviewed individuals engaged in campaign-related activity. During the course of this process, the observers learned the following:

A worker engaged in handing out flyers stated that his name was Rifat Rahman. Mr. Rahman stated that he was to work from 6:00am to 9:00pm and would be paid \$150.00. In addition, Mr. Rahman stated that he met at the Campaign office that day, signed in, and then went to the location where he and his father distributed flyers. Mr. Rahman stated that he had worked for the Campaign for seven additional days before the election, and he believed that he would be paid for the work he had performed.

Although the individual was engaged in activity to advance the election of the Candidate and stated the Campaign was involved in directing or facilitating the activity the person was performing, the Campaign's disclosure does not include any reported payment to the individual of the name given to the observers. The activity observed and the lack of reported expenditures indicate that a third party paid for Mr. Rahman's services.

Previously Provided Recommendation

a) This finding was identified as a result of the Campaign's response to the Notice of Alleged Violations and Recommended Penalties. On February 2, 2016, the Campaign was sent a Revised Notice of Alleged Violations and Recommended Penalties and the following recommendation was provided:

The Campaign may be able to reduce this penalty by providing information and documentation about the source and amounts of all payments to Rahman on those dates (i.e. September 10, 2013 and the seven earlier days Rahman had worked for the Campaign prior to the primary election). If a third party was compensated by the Campaign to pay for these services, the Campaign must identify the payment to the third party by transaction ID(s) and provide a list of all individuals who were paid by the third party. The Campaign must also provide timesheets for each worker.

b) The Campaign must provide contemporaneous sign-in sheets for all workers paid by the Campaign or any other party for services provided on the date of the primary election. The Campaign must address how the individuals above were associated with the Campaign. If the individuals were paid, the Campaign must provide information about the source and amounts of all payments to workers on those dates. Specifically, the Campaign must explain who paid the individuals, how much they were paid, and if any other individuals were compensated in the same manner.

- If the Campaign reported the cost as part of another expenditure, the Campaign must describe the relevant transaction(s)—including the transaction ID(s) of the payment(s)—and provide supporting documentation, including the timesheets for each worker.
- If a third party was compensated by the Campaign to pay for these services, the Campaign must identify the payment to the third party by transaction ID(s) and provide a

list of all individuals who were paid by the third party. The Campaign must also provide timesheets for each worker.

- If workers were paid by a third party that was not compensated by the Campaign, the Campaign must provide evidence of the source of the in-kind contribution, e.g., a copy of the cancelled check paying the worker, or a signed statement from the in-kind contributor verifying that it paid for the in-kind contribution. If the Campaign did not report an in-kind contribution, it must explain its failure to do so and amend its disclosure statements to report it.
- If the workers were not paid by the Campaign or a third party, explain why the workers stated that they expected to be paid for their work on behalf of the Campaign.

Campaign's Response

a) This finding was identified as a result of the Campaign's response to the Notice of Alleged Violations and Recommended Penalties. In response to the Revised Notice of Alleged Violation dated February 2, 2016, the Campaign stated it will not contest this finding.

b) In response to the Draft Audit Report, the Campaign stated that it "contracted A Better Living Resource to hire and track all campaign workers." Additionally, the Campaign stated that it "was not involved in the hiring or management of the workers." The Campaign failed to provide timesheets from A Better Living Resource ("ABLRC"), as requested. In response to the Notice of Alleged Violations and Recommended Penalties, the Campaign submitted timesheets and payment checks from ABLRC. However, the submitted documentation did not indicate that anyone named Rifat Rahman was hired by ABLRC.

Board Action

- a) *See Finding #6.*
- b) The Board found the Campaign in violation and assessed \$100 in penalties.

Expenditure Findings

9. 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 transactions listed below:

NAME	STATEMENT/ SCHEDULE/ TRANSACTION	INVOICE DATE	PAID DATE	AMOUNT	NOTE
54 th Democratic Club	10/F/R0000698	07/31/13	08/03/13	\$416.87	(1)
54 th Democratic Club	10/F/R0000701	07/30/13	08/03/13	\$440.39	
54 th Democratic Club	12/F/R0000871	09/02/13	09/10/13	\$719.22	
54 th Democratic Club	16/N/R0000894	09/02/13		\$356.58	

(1) In response to the Draft Audit Report, the Campaign provided invoices from this entity for utilities, but failed to explain the nature of its relationship with the Campaign nor why it was paying it for utilities.

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 documentation such as invoices for utilities (paid to 54th Democratic Club) and cancelled checks. However, the Campaign failed to explain why it was paying this entity for utilities. In response to the Notice of Alleged Violations and Recommended Penalties, the Campaign stated that it "...agreed that the Campaign would assume responsibility for payments for these accounts during the time the Campaign was using the space. The 54th Dem Club continued to receive bills for these services and invoiced the campaign monthly." Additionally, the Campaign provided a letter from 54th Democratic Club confirming that this was their agreement. However, the Campaign did not provide a transaction report from the utilities service provider as evidence that the payments made to 54th Democratic club were actually for utilities.

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,



Signature on Original

Sauda S. Chapman
Director of Auditing and Accounting

Date: October 7, 2016

Staff: Melody Lee

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

Candidate: Espinal, Jr., Rafael L (ID:1673-P)**Office:** 5 (City Council)**Election:** 2013

1. Opening cash balance (All committees)		\$0.00
2. Total itemized monetary contributions (Sch ABC)		\$76,282.00
3. Total unitemized monetary contributions		\$0.00
4. Total in-kind contributions (Sch D)		\$200.00
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)		\$151,358.74
Expenditure payments	\$151,284.57	
Advance repayments	\$74.17	
9. Total unitemized expenditures		\$0.00
10. Total transfers-In (Sch G)		\$170.00
Type 1	\$0.00	
Type 2a	\$0.00	
Type 2b	\$170.00	
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)		\$144.42
17. Total receipts adjustment (Sch M - excluding CFB repayments)		\$150.00
18. Total outstanding liabilities (Sch N - last statement submitted)		\$5,106.58
Outstanding Bills	\$5,106.58	
Outstanding Advances	\$0.00	
19. Total advanced amount (Sch X)		\$0.00
20. Net public fund payments from CFB		\$80,073.00
Total public funds payment	\$81,682.00	
Total public funds returned	(\$1,609.00)	
21. Total Valid Matchable Claims		\$13,912.00
22. Total Invalid Matchable Claims		\$2,375.00
23. Total Amount of Penalties Assessed		\$1,409.00
24. Total Amount of Penalty Payments		\$0.00
25. Total Amount of Penalties Withheld		\$0.00

Exhibit Ia
Espinal for City Council
Unregistered Political Committee
(see Finding #7)

21#

TRANS ID# 713, 746, 816, 814, 855



Personal Profile | Logout

Restricted Information

Account Search > Account Search Results > Customer Assistance > Transaction Search (Reversals) > Transaction

Today's Date: 11/05/2014

Search Results (Reversals)

Search Criteria

CRID: [REDACTED]

Account Number: [REDACTED]

Permit #: 1375

Permit Type: PI

Date Range: 08/01/2013 to 09/15/2013

Customer Name: 54TH DEMOCRATIC CLUB

Transaction #	PO of Activity	CAPS Transaction #	Statement Details	Verifications	Transaction Type	Full Service	Job ID	Postage Statement Number	Issue Date	Transaction Amount	Payment Date	Activity Date	Clerk
[REDACTED]	3509950120				Permit Deposit	N/A				\$ 3,400.00	08/01/2013	08/01/2013	POS
[REDACTED]	3509950120		RS	CE ME	3602 Postage statement	No		166908860		\$ - 3,232.95	08/02/2013	08/02/2013	JEJ
[REDACTED]	3509950120		RS	BC PS CE	3602 Postage statement	N/A		167623014		\$ - 3,348.94	08/12/2013	08/12/2013	ML
[REDACTED]	3509950120				Permit Deposit	N/A				\$ 3,500.00	08/12/2013	08/12/2013	POS
[REDACTED]	3509950120		RS	BP CE DT	3602 Postage statement	No		168159302		\$ - 5,310.85	08/20/2013	08/20/2013	JEJ
[REDACTED]	3509950120				Permit Deposit	N/A				\$ 5,385.10	08/20/2013	08/20/2013	POS
[REDACTED]	3509950120				Permit Deposit	N/A				\$ 3,400.00	08/26/2013	08/26/2013	POS
[REDACTED]	3509950120				Permit Deposit	N/A				\$ 1,400.00	08/26/2013	08/26/2013	POS
[REDACTED]	350995				Deposit reversal	N/A				\$ - 1,400.00	08/26/2013	08/26/2013	POS
[REDACTED]	3509950120				Permit Deposit	N/A				\$ 1,400.00	08/26/2013	08/26/2013	POS
[REDACTED]	350995				Deposit reversal	N/A				\$ - 1,400.00	08/26/2013	08/26/2013	POS
[REDACTED]	3509950120		RS	BP	3602 Postage statement	No		168781439		\$ - 5,297.41	08/27/2013	08/27/2013	JEJ

TRANS ID 713
TRANS ID 746

TRANS ID # 814
816



3509950120		Permit Deposit	N/A			\$ 1,400.00	08/27/2013	08/27/2013	POS
3509950120		Permit Deposit	N/A			1,400.00	08/27/2013	08/27/2013	POS
3509950120	RS	3602 Postage statement	No	169370223		\$ - 3,387.32	09/04/2013	09/04/2013	CC
3509950120		Permit Deposit	N/A			\$ 3,400.00	09/04/2013	09/04/2013	POS
350995	N/A	Fee Payment reversal (First-Class Presort)	N/A	N/A	N/A	\$ 200.00	08/02/2013	08/02/2013	JJC
350995	N/A	Fee Payment (Standard Mail)	N/A	N/A	N/A	\$ - 200.00	08/02/2013	08/02/2013	JJC

TRANS # 816

TRANS ID# 855

Transactions marked with an * represents a reversed transaction.
 Transactions marked with an ++ represents a QMR Verification which are not reversible.
 Transactions marked with a P represents a POS transaction.
 Transactions marked with a D represents a Deposit transaction.

Exhibit Ib
Espinal for City Council
Unregistered Political Committee
(see Finding #7)

TRANS FOF
842

CYPRESS HILLS STATION
BROOKLYN, New York
112089993

3568880314-0098

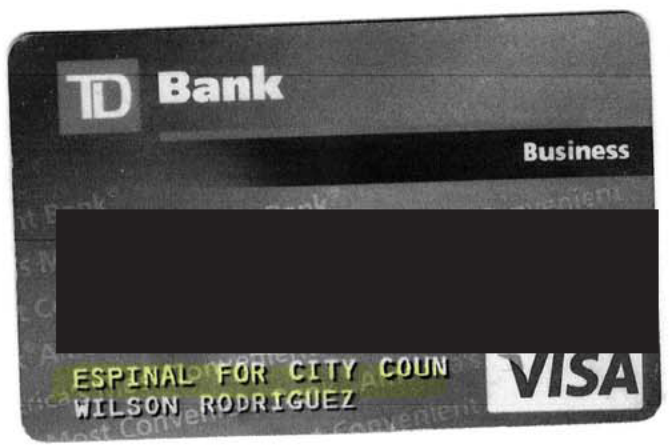
09/04/2013 (718)277-1405 02:54:20 PM

Sales Receipt

Product Description	Sale Qty	Unit Price	Final Price
(Forever) A Flag for All Seasons PSA Bklt/20	1	\$9.20	\$9.20
(Forever) A Flag for All Seasons PSA Bklt/20	1	\$9.20	\$9.20
(Forever) A Flag for All Seasons PSA Bklt/20	1	\$9.20	\$9.20
(Forever) A Flag for All Seasons PSA Bklt/20	1	\$9.20	\$9.20
(Forever) A Flag for All Seasons PSA Bklt/20	1	\$9.20	\$9.20
(Forever) A Flag for All Seasons PSA Bklt/20	1	\$9.20	\$9.20
(Forever) A Flag for All Seasons PSA Bklt/20	1	\$9.20	\$9.20

Total: \$358.80

Paid by: VISA
Account #: XXXXXXXXXX [REDACTED] \$358.80
Approval #: 035418
Transaction #: 93
25903590818



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