



**New York City Campaign Finance Board**  
100 Church Street, 12<sup>th</sup> Floor, New York, NY 10007  
212.409.1800 | www.nycffb.info

Rose Gill Hearn  
Chair

Art Chang  
Richard J. Davis  
Courtney C. Hall  
Mark S. Piazza  
Members

Amy M. Loprest  
Executive Director

Sue Ellen Dodell  
General Counsel

Via C-Access  
November 16, 2015

Kristen A. Nestler  
Nestler 2013



Dear Kristen A. Nestler:

Please find attached the New York City Campaign Finance Board's ("CFB" or "Board") Final Audit Report for the 2013 campaign of Walter G. Nestler (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 May 28, 2015 (attached). The report concludes that the Campaign demonstrated substantial compliance with the Campaign Finance Act (the "Act") and the Board Rules (the "Rules").

As detailed in the Public Funds notice, the Campaign received a post-election public funds payment of \$9,948.00.

By **December 16, 2015**, the Campaign must demonstrate to the CFB that the public funds were used to pay specific outstanding liabilities. The Campaign received a notice that listed the specific outstanding liabilities for which the public funds may be used and explained how to document proper use. The Campaign will be required to return any public funds that were not properly spent. *See* Rule 5-01(o).

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.

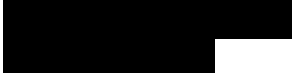
The CFB appreciates the Campaign's cooperation during the 2013 election cycle. Please contact the Audit Unit at 212-409-1800 or [AuditMail@nyccfb.info](mailto:AuditMail@nyccfb.info) with any questions about the enclosed report.

Sincerely,



Jonnathon Kline, CFE  
Director of Auditing and Accounting

signature on original

c: Walter G. Nestler  


Nestler 2013  


Attachments



# **EC2013 Final Audit Report**

Nestler 2013

November 2015

## Table of Contents

Table of Contents .....	3
RESULTS IN BRIEF .....	4
BACKGROUND .....	5
SCOPE AND METHODOLOGY .....	6
AUDIT RESULTS .....	9
Public Matching Funds Findings .....	9
1. Potential Post-Election Public Funds Payment .....	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 Walter G. Nestler (the “Campaign”) indicate findings of non-compliance with the Campaign Finance Act (the “Act”) and Board Rules (the “Rules”) as detailed below:

### ***Public Matching Funds Findings***

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

- The Campaign may be eligible for a post-election public funds payment (see Finding #1).

**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: Walter G. Nestler	Contribution Limit:
ID: 1342	\$2,750
Office Sought: City Council	
District: 18	Expenditure Limit:
	2010–2012: N/A
Committee Name: Nestler 2013	2013 Primary: N/A
Classification: Participant	2013 General: \$168,000
Certification Date: May 21, 2013	
	Public Funds:
Ballot Status: General	Received: \$61,968
General Election Date: November 5, 2013	Returned: \$0
Party: Green Party, Progressive Party	Campaign Finance Summary:
	<a href="http://bit.ly/1yS3LYP">http://bit.ly/1yS3LYP</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. After the election, we performed an audit of all financial disclosure statements submitted for the election (see summary of activity reported in these statements at Appendix #1).

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

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

To determine if the Campaign adhered to contribution limits and prohibitions, we conducted a comprehensive review of the financial transactions reported in the Campaign's disclosure statements. Based on the Campaign's reported contributions, we assessed the total amount contributed by any one source and determined if it exceeded the applicable limit. We also

determined if any of the contribution sources were prohibited. We reviewed literature and other documentation to determine if the Campaign accounted for joint activity with other campaigns.

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

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

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

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

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

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



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

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

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

The Campaign was provided with a preliminary draft of this audit report and was asked to provide a response to the findings. The Campaign responded, and the CFB evaluated any additional documentation provided and/or amendments to reporting made by the Campaign in response. After reviewing the Campaign's response, CFB staff determined that the Campaign had resolved all of the outstanding findings.

## **AUDIT RESULTS**

### ***Public Matching Funds Findings***

#### **1. Potential Post-Election Public Funds Payment**

Upon the satisfactory resolution of all issues in this Draft Audit Report, campaigns may qualify for a payment of public funds to pay remaining outstanding liabilities. The payment, if any, will occur only when the CFB issues the final audit report. *See* Rule 5-01(m). Campaigns will then have 60 days after receipt of the final public funds payment to demonstrate that the public funds were properly used to pay reported and documented outstanding liabilities. *See* Rule 5-01(o).

The Detail Payment Report for the Campaign shows the amount of public funds the Campaign may be eligible to receive. This amount may be adjusted up or down, based on the Campaign's response to this Draft Audit Report and the amount of funds remaining in the Campaign's bank account. Post-election payments are limited to the lesser of the following: unpaid valid claims times the matching factor, documented qualified expenditures in excess of the funds already received, or outstanding liabilities reported in the January 15, 2014 filing with the CFB and documented as still outstanding.

#### **Previously Provided Recommendation**

To be eligible for a post-election payment, the Campaign must respond on time to the Draft Audit Report and resolve any compliance issues. In addition, the Campaign must provide documentation demonstrating that the outstanding liabilities reported in its January 15, 2014 disclosure statement are still outstanding. This documentation must show an ongoing attempt by the creditor or vendor to collect the outstanding amount and may include invoices, late notices, or other correspondence. Return a copy of the exhibit with the documentation and indicate which items have already been paid or forgiven. Outstanding liabilities listed on the exhibit are the only liabilities that may be considered for the purpose of a post-election public funds payment.

The Invalid Matching Claims Report gives the details of each contribution considered invalid. The left side of the report shows the data reported by the Campaign for each matching claim and the codes that describe why the claim is invalid. The right side provides space for the Campaign's written response and a check box that describes the action the Campaign is taking to address the invalid claim. Return this report with the response to this Draft Audit Report. To supply additional or modified data, correct the appropriate transactions in C-SMART and amend the appropriate disclosure statements. For transactions with more than one invalid code, the Campaign must address all the codes before the CFB will validate the claim. No public funds will be disbursed on invalid claims.

### **Campaign Response**

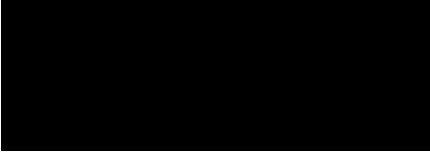
In response to the Draft Audit Report, the Campaign provided additional contribution documentation.

### **Board Action**

The Campaign received a Post-Election Payment of \$9,948.00 on May 28, 2015.

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: November 16, 2015

Staff: Melody Lee

Michael Iacono

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

**Candidate:** Nestler, Walter G (ID:1342-P)**Office:** 5 (City Council)**Election:** 2013

---

1. Opening cash balance (All committees)		\$175.00
2. Total itemized monetary contributions (Sch ABC)		\$15,045.00
3. Total unitemized monetary contributions		\$0.00
4. Total in-kind contributions (Sch D)		\$0.00
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)		\$65,809.57
Expenditure payments	\$53,982.53	
Advance repayments	\$11,827.04	
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)		\$6,000.00
13. Total loan repayments (Sch J)		\$6,000.00
14. Total loans forgiven (Sch K)		\$0.00
15. Total liabilities forgiven (Sch K)		\$0.00
16. Total expenditures refunded (Sch L)		\$0.17
17. Total receipts adjustment (Sch M - excluding CFB repayments)		\$250.00
18. Total outstanding liabilities (Sch N - last statement submitted)		\$10,938.53
Outstanding Bills	\$6,238.53	
Outstanding Advances	\$4,700.00	
19. Total advanced amount (Sch X)		\$0.00
20. Net public fund payments from CFB		\$61,968.00
Total public funds payment	\$61,968.00	
Total public funds returned	\$0.00	
21. Total Valid Matchable Claims		\$11,620.00
22. Total Invalid Matchable Claims		\$130.00
23. Total Amount of Penalties Assessed		N/A
24. Total Amount of Penalty Payments		\$0.00
25. Total Amount of Penalties Withheld		\$0.00