



**New York City  
Campaign Finance Board**

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July 26, 2007

Richard M. O'Malley  
Gennaro 2005

Dear Mr. O'Malley:

Attached please find the New York City Campaign Finance Board's (the "Board") final audit report for the 2005 election campaign of James F. Gennaro (the "Campaign"). This report is based on a comprehensive review of the Campaign's financial disclosure statements and submitted documentation. As noted in the Conclusions section of the attached report, the Campaign failed to adhere fully to certain Campaign Finance Program requirements.

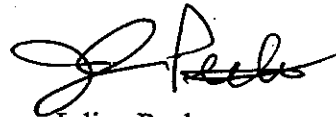
Because the Campaign has not reported extinguishing all liabilities from the 2005 election, all other Program requirements, including contribution limits, remain in effect for activity related to that election. Please be advised that the Board may in the future require the Campaign to submit relevant information and proof of ongoing compliance with the 2005 election requirements. See Campaign Finance Board Rules 3-02(b) and 4-01(a).

As a result of actions taken by the Board, \$600 in penalties have been assessed against the Campaign which are delineated in the report and attached Board Determination letter. Checks should be made payable to the "New York City Election Campaign Finance Fund." If the Board is not in receipt of the full \$600 by **August 27, 2007**, James F. Gennaro's name and the amount of unpaid penalties will be posted on the Board's Web site. The Board may also initiate a civil action to compel payment. In addition, the candidate and any principal committee he authorizes will not be eligible to receive public funds for a future election until the full amount is paid.

If you have any questions regarding filing disclosure statements for future elections, please call the Candidate Services Unit at 212-306-7100.

The Board and its staff would like to thank you and the Campaign staff for your cooperation during the 2005 election cycle. Should you have any questions about the enclosed report, please call me at 212-306-7123.

Sincerely,

A handwritten signature in black ink, appearing to read "Julius Peele". The signature is fluid and cursive, with a large initial "J" and a long horizontal stroke at the end.

Julius Peele  
Director of Auditing and Accounting

**Attachments**

c: James F. Gennaro

July 26, 2007

**CAMPAIGN FINANCE BOARD  
FINAL AUDIT REPORT OF  
GENNARO 2005**

**BACKGROUND**

The Campaign Finance Program (the "Program") was designed to limit the role and influence of private money in the political process. Candidates who voluntarily participate in the Program can qualify to have private contributions matched with public money. In exchange, the participants agree to full disclosure of their campaign finances, as well as to strict contribution and spending limits.

In December 2004, the City Council passed legislation expanding the jurisdiction of the Board to all candidates running for Mayor, Public Advocate, Comptroller, Borough President and City Council. Program participants and non-participants alike are required to disclose all campaign activity to the Board. In addition, all candidates must adhere to the contribution limits and the ban on corporate contributions. Non-participants are not eligible to receive public funds and are not subject to the expenditure limits.

The table below provides detailed information about the candidate:

Name: James F. Gennaro	ID: 283
Office Sought: City Council	District: 24
Class: Participant	
Certification Date: June 1, 2005	Contribution Limit: \$2,750
Public Funds Received: \$127,204	Expenditure Limit:
Public Funds Returned: \$0	2002-2003 \$3,000
5 for 1 Matching	2004 \$40,000
Primary: No	2005 Primary \$150,000
General: No	2005 General \$150,000
Committee Name: Gennaro 2005	Party: Democratic, Working Families
Other Committees: No	Ballot Status: Primary, General

## **REVIEW SCOPE AND OBJECTIVES**

Board staff performed an audit of the financial disclosure statements and books and records submitted by the Campaign. The audit covered the information disclosed in the Campaign's financial disclosure statements one through seventeen covering the period from July 12, 2003 through January 11, 2006. The audit also included a review of the Campaign's bank statements covering the period December 9, 2003 through January 31, 2007.

The objectives of the Board's audit were to ensure that (1) the contribution and expenditure limits and prohibitions were adhered to; (2) financial transactions were accurately reported and documented; (3) adequate books and records were maintained by the Campaign to demonstrate compliance with the Campaign Finance Act and Campaign Finance Board Rules; and (4) the correct amount of public funds was received by the Campaign and was disbursed in accordance with the Act's requirements.

## CONCLUSIONS

The Board staff's review revealed that the functions carried out by the Campaign were properly documented and that the applicable rules were followed with the exception of the following items:

- The Campaign did not disclose payments made by a vendor to subcontractors (see Finding #1).
- The Campaign did not demonstrate that post-election expenditures were permissible and election-related (see Finding #2). The Board assessed \$250 in penalties for this violation.
- The Campaign failed to report or inaccurately reported financial transactions to the Board (see Finding #3).
- The Campaign did not report all advances correctly (see Finding #4).
- The Campaign did not properly disclose credit card purchases (see Finding #5).
- The Campaign accepted contributions from the following unregistered political committees: Friends of Uma Sengupta, \$150 on May 5, 2004, which was refunded on June 22, 2005; and Committee to Elect B. McLaughlin, \$100 on June 1, 2004, which was refunded on June 16, 2005. On July 20, 2007, the Board assessed \$225 in penalties for these violations: \$125 for the Friends of Uma Sengupta and \$100 for the Committee to Elect B. McLaughlin.
- The Campaign accepted a \$250 contribution on May 5, 2004 from the following corporate contributor: Sophia D. Ltd (reported as Sophia Dabakarov) which was refunded on May 6, 2005. On July 20, 2007, the Board assessed a \$125 penalty for this violation.

## **FINDINGS AND RECOMMENDATIONS**

### **1. DISCLOSURE – Possible Subcontractors**

Campaigns are required to disclose all expenditures that total more than \$5,000 in the aggregate that are made to subcontractors by any vendors to the Campaign subcontracting for work on behalf of the Campaign. The name and address of the subcontractor, the amounts paid to the subcontractor, and the purpose and amount of any expenditure must be reported. *See* Rule 3-03(e)(3).

Board staff's review of disclosure statements filed by the Campaign revealed that the following payee received large payments and appears to have provided goods and/or services that may have been subcontracted:

<b><u>Payee</u></b>	<b><u>Amount Paid</u></b>
Parkside Group, LLC	\$132,326

Therefore, information concerning the use of subcontractors may not have been fully reported to the Board as required.

### **Recommendation #1**

The Campaign must respond by addressing whether this payee used subcontractors who received in excess of \$5,000 in total during the course of the campaign. The Campaign must support its response with written documentation from the payee regarding the use of subcontractors. If subcontractors received more than \$5,000, the Campaign must amend its disclosure statements to reflect this information by adding subcontractor information in C-SMART and filing amended disclosure statements. The

Campaign should not rely solely on the lack of named subcontractors on a payee's original invoices. A sample form to send to the listed payee is available in the *Campaign Finance Handbook*, on the CFB's website, [www.nyccfb.info](http://www.nyccfb.info), or you may contact the Candidate Services Unit at 212-306-7100 to request a copy. The Campaign should provide documentation of all its attempts to obtain subcontractor information.

### **Campaign's Response**

The Campaign amended its disclosure statement to reflect \$28,809 in subcontractor activity to the USPS by the Parkside Group LLC but did not provide a completed subcontractor form.

### **Board's Response**

While the Campaign amended its disclosure statement to reflect the use of a subcontractor, in light of the large payment of \$132,326 to the Parkside Group LLC, it appears that the Campaign may have failed to report other subcontractors who were paid by the Parkside Group LLC. In addition, because the Campaign did not submit a completed subcontractor form from the vendor, the Board cannot ascertain whether the Campaign reported all subcontractor activity for the Parkside Group LLC. However, because the Campaign responded to notification, the Board will not take any further action on this matter other than to make it a part of the candidate's record with the Board.

2. **EXPENDITURES – Post Election**

After the election, Program participants are restricted from making any disbursements except for the preceding election until all unspent funds have been repaid to the Board. The participant has the burden of demonstrating that a post-election expenditure is for the preceding election. Only certain limited routine activities involving nominal costs associated with winding up a campaign are permitted. See New York City Administrative Code §3-710(2)(c) and Rule 5-03(e)(2).

The Campaign reported expenditures that due to their timing, amount, and purpose appear to be improper post-election expenditures:

<b><u>Invoice Date</u></b>	<b><u>Date Paid</u></b>	<b><u>Payee</u></b>	<b><u>Stmt/Sch/TransID</u></b>	<b><u>Purpose</u></b>	<b><u>Amount</u></b>	
11/24/05	11/24/05	Massada II Car and Limo	16/F/R0002958	OFFCE	\$278	
11/30/05	11/30/05	Wohl Associates LLC*	16/F/R0002951	RENTO	\$1,530	
12/21/05	12/21/05	Sprint PCS	17/F/R0002961	OFFCE	\$161	\$1,969
	01/25/06	Post Master			\$62	
	01/31/06	Efax Plus Service			\$220	
	02/03/06	Con Ed			\$142	
	02/13/06	Jim Dandeneau			\$250	
	07/17/06	Jeffrey Leb			\$1,500	
	08/02/06	Verizon			\$497	
						<b><u>\$2,671</u></b> **
						Total <b><u>\$4,640</u></b>

\*The full reported transaction amount is \$2,295; however, \$1,530 of the transaction is being questioned as an improper post-election expenditure.

\*\*Transactions after the January 17, 2006 filing

## **Recommendation #2**

The Campaign must provide documentation and information to the Board to show that these expenditures were for the preceding election or were routine and nominal expenditures associated with winding up the 2005 campaign. Until the Campaign makes this demonstration, the amount of these expenditures will be deducted from the disbursements total of the unspent campaign funds calculation and therefore will increase the amount of unspent campaign funds to be repaid to the Board (see Appendix #2).

## **Campaign's Response**

In response to the Notice of Alleged Violations and Proposed Penalties, the Campaign stated that it does not contest this violation.

## **Board's Response**

The Board assessed \$250 in penalties for this violation. In addition, the total, \$1,969, for the Massada II Car and Limo, Wohl Associates LLC and Sprint PCS was deducted from the disbursements total in the unspent campaign funds calculation (see Appendix #2).

### **3. FINANCIAL DISCLOSURE REPORTING – Discrepancies**

Campaigns are required to report every contribution, loan, and other receipt received, and every disbursement made. *See* New York City Administrative Code §3-703(6) and Rule 3-03. In addition, the Campaign is required to deposit all receipts into an account listed on the candidate's Certification. *See* Administrative Code §3-703(10)

and Rule 2-06(a). The Campaign is also required to provide the Board with bank records, including periodic bank statements and deposit slips. See Administrative Code §§3-703(1)(d), (g), and Rules 4-01(a), (f).

a) The Campaign reported the following transactions that do not appear on its bank statements.

<u>Payee</u>	<u>Check No.</u>	<u>Stmt/Sch/TransID</u>	<u>Date</u>	<u>Amount</u>
Postmaster Flushing	0000	5/F/R0000784	05/19/04	\$40
Argo Apts	1005	5/F/R0000794	01/29/04	\$700
Bank of New York	Debit	13/F/R0002658	09/12/05	\$30
Petty Cash	None Given	10/F/R0001970	07/06/05	\$40
Petty Cash	None Given	13/F/R0002529	09/13/05	\$500
Regan, Yarrow	None Given	10/F/R0001572	06/07/05	\$60
Saunders, Catherine	None Given	11/F/R0002283	08/02/05	\$20
			Total	<u>\$1,390<sup>1</sup></u>

b) The Campaign reported the following transaction with the same check number:

<u>Payee</u>	<u>Stmt/Sch/TransID</u>	<u>Date Paid</u>	<u>Check No.</u>	<u>Reported Check Amount</u>	<u>Duplicate Reported Amount</u>
Time Warner	6/F/R0001013	01/06/05	9999	\$185	
Time Warner	13/F/R0003699	01/06/05	Credit		\$185 <sup>2</sup>

### Recommendation #3

For checks cited as not appearing on bank statements, the Campaign must provide evidence to show that the check has cleared the bank (*i.e.*, front and back of the check), was reported in error, or amend its disclosure statement to delete the transaction as an

<sup>1</sup> This amount has been deducted from the disbursements total of the unspent campaign funds calculation (see Appendix #2).

<sup>2</sup> The duplicate reported amount has been deducted from the disbursements total of the unspent campaign funds calculation (see Appendix #2).

expenditure payment and report it as an in-kind contribution. For duplicate transactions, the Campaign must amend its disclosure statements by deleting the duplicate transactions. For assistance with modifying transactions in C-SMART and submitting amendments, please call the Candidate Services Unit at 212-306-7100. Please note that any newly entered transactions will only appear as new transactions in an amendment to the last disclosure statement, even if the transaction dates are from earlier periods. Please 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 statements for which amendments must be submitted. If any new transactions have been added, the Campaign must amend statement seventeen.

### **Campaign's Response**

- a) The Campaign stated that it amended its disclosure statements and that all other checks were issued as reported.
  
- b) The Campaign stated that the transaction was amended.

### **Board's Response**

- a) The checks were not cashed. The total amount of these transactions was deducted from the disbursements total in the unspent campaign funds calculation (see Appendix #2).

b) The Campaign did not amend its disclosure statements to accurately report this transaction. The total amount of this transaction was deducted from the disbursements total in the unspent campaign funds calculation (see Appendix #2).

**4. ADVANCE PURCHASES**

Campaigns are required to report all advances made on behalf of their committee. The campaign must include the advancer's name and address as well as the name and address of the vendor from whom the purchase was made. *See* Rule 3-03(c)(3).

The Campaign did not properly report the following vendor:

<u>Advancer Name</u>	<u>Reported Vendor</u>	<u>Stmt/Sch/TransID</u>	<u>Date</u>	<u>Amount</u>
Mariotti, Brittany	Mariotti, Brittany	8/P/R0001080	04/14/05	\$213

**Recommendation #4**

The Campaign must amend its disclosure statement to report the vendor's name and address from whom the purchase was made.

**Campaign's Response**

The Campaign stated that it is unable to locate its documentation, but it will amend its disclosure statement as soon as the documentation is found.

**Board's Response**

The Board will take no further action on this matter other than to make it a part of the candidate's record with the Board.

**5. EXPENDITURES – Credit Card Expenditures**

Campaigns must report the actual vendor and purchase price incurred for any goods purchased with a credit or charge card, rather than the payments made to the credit or charge card company. In addition, the Campaign must provide the Board copies of documentation to verify credit and charge card purchases reported in its disclosure statements. See New York City Administrative Code §§3-703(a)(d), (g) and Rules 3-03(e)(4), 4-01(a), and (e).

The Campaign reported the following expenditures for which it listed as the payee the credit or charge card company instead of the vendor from whom the goods or services were purchased:

<u>Payee</u>	<u>Stmt/Sch/TransID</u>	<u>Invoice Date</u>	<u>Date Paid</u>	<u>Amount</u>
American Express	13/F/R0002568	04/27/04	04/27/04	\$1,314
American Express	6/F/R0001007	09/15/04	09/15/04	\$81
			Total	<u>\$1,395</u>

**Recommendation #5**

The Campaign must explain its failure to properly disclose credit card purchases listed above. Additionally, it must amend its disclosure statements to disclose the actual vendors who provided the goods or services and the amounts paid to them, and provide

supporting documentation for these expenditures, including invoices and credit card statements.

**Campaign's Response**

The Campaign stated that it will amend its disclosure statements as soon as it receives the credit card statements containing these transactions.

**Board's Response**

The Board will take no further action on this matter other than to make it a part of the candidate's record with the Board.

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

**Candidate:** Gennaro, James F (ID:283-P)**Office:** 5 (City Council)**Election:** 2005

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1. Opening cash balance (All committees)		\$0
2. Total itemized monetary contributions (Sch ABC)		\$218,401
3. Total unitemized monetary contributions		\$0
4. Total in-kind contributions (Sch D)		\$341
5. Total unitemized in-kind contributions		\$0
6. Total other receipts (Sch E - excluding CFB payments)		\$395
7. Total unitemized other receipts		\$0
8. Total itemized expenditures (Sch F)		\$348,662
Expenditure payments	\$343,473	
Advance repayments	\$5,189	
9. Total unitemized expenditures		\$0
10. Total transfers-In (Sch G)		\$0
Type 1	\$0	
Type 2a	\$0	
Type 2b	\$0	
11. Total transfers-out (Sch H)		\$1,236
Type 1	\$1,236	
Type 2a	\$0	
Type 2b	\$0	
12. Total loans received (Sch I)		\$0
13. Total loan repayments (Sch J)		\$0
14. Total loans forgiven (Sch K)		\$0
15. Total liabilities forgiven (Sch K)		\$0
16. Total expenditures refunded (Sch L)		\$8,731
17. Total receipts adjustment (Sch M - excluding CFB repayments)		\$3,950
18. Total outstanding liabilities (Sch N - last statement submitted)		\$0
Outstanding Bills	\$0	
Outstanding Advances	\$0	
19. Total advanced amount (Sch X)		\$0
20. Net public fund payments from CFB		\$127,204
Total public funds payment	\$127,204	
Total public funds returned	\$0	
21. Total Valid Matchable Claims		\$33,787
22. Total Invalid Matchable Claims		\$850
23. Total Amount of Penalties Assessed		\$600
24. Total Amount of Penalty Payments		\$0
25. Total Amount of Penalties Withheld		\$0

New York City Campaign Finance Board  
 Campaign Finance Information System  
 Unspent Campaign Funds Calculation  
 Appendix 2

Statements: 4 - 17

**Candidate:** Gennaro, James F (ID:283-P)

**Office:** 5 (City Council)

**Election:** 2005

1. Opening cash balance (All committees)	\$0	
2. Total itemized monetary contributions (Sch ABC)	\$218,401	
3. Total unitemized monetary contributions	\$0	
4. Total other receipts (Sch E - not from CFB)	\$395	
5. Total expenditures refunded (Sch L)	\$8,731	
6. Total loans received (Sch I)	\$0	
7a. Total transfers-In (Sch G - type 1)	\$0	
7b. Total transfers-In (Sch G - type 2b)	\$0	
8. Net public fund payments from CFB	\$127,204	
Total public funds payment	\$127,204	
Total public funds returned	\$0	
9. Adjustment to Receipts (see Insert 1)	(\$18,748)	
10. Subtotal: Line 1 through 9.....		\$335,983
11. Total itemized expenditures (Sch F)	\$329,914	
12. Total receipts adjustment (Sch M - not CFB)	\$3,950	
13. Total outstanding bills (Sch N - All committees)	\$0	
14. Total unitemized expenditures	\$0	
15. Total loan repayments (Sch J)	\$0	
16. Total loans forgiven (Sch K)	\$0	
17. Total outstanding loans (Sch I-(J+K))	\$0	
18a. Total transfers-out (Sch H - type 1)	\$1,236	
18b. Total transfers-out (Sch H - type 2b)	\$0	
19. Adjustment to Disbursements (see Insert 1)	\$5,656	
20. Subtotal: Line 11 through 19.....		\$340,756
<b>Total unspent campaign funds (line 10 - line 20):</b>	<b>(\$4,773)</b>	<b>Deficit</b>

**INSERT 1**  
**Adjustments to the Unspent Campaign Funds Calculation****Candidate:** Gennaro, James F (ID:283-P)**Office:** 5 (City Council)**Election:** 2005**Adjustments to Receipts**

Adjustment for Prior Election Spending	(\$18,748)
<b>Total:</b>	<b>(\$18,748)</b>

**Adjustments to Disbursements**

Unallowable Post Election Expenditures (see Finding #2)	(\$1,969)
Uncashed Checks\Not Appearing on Bank Statements (see Finding #3a)	(\$1,390)
Duplicate Checks (see Finding #3b)	(\$185)
Expenditures After the Last Disclosure Statement (bank & compliance fee:	\$9,200
<b>Total:</b>	<b>\$5,656</b>