



Los Angeles City Ethics Commission

AUDIT REPORT

“MITCH O’FARRELL FOR LA CITY COUNCIL 2013 - GENERAL”

*2013 General Election Committee
(ID #1356066)*

June 9, 2017

LOS ANGELES CITY ETHICS COMMISSION AUDIT REPORT

“Mitch O’Farrell for LA City Council 2013 - General” *2013 General Election Committee*

AUDIT AUTHORITY

The Ethics Commission audited “Mitch O’Farrell for LA City Council 2013 - General” (the Committee) to determine if the candidate, the treasurer, and the Committee complied with the limitations, prohibitions, recordkeeping requirements, and disclosure requirements in the state’s Political Reform Act of 1974, the Los Angeles City Charter (Charter), and applicable City ordinances. The Ethics Commission is required to “conduct audits and investigations of reports and statements filed by candidates and committees supporting or opposing candidates for elective City office.” Charter § 470(n)(2). An audit is mandatory for each candidate who raised \$100,000 or more in contributions, made \$100,000 or more in expenditures, or received public matching funds. Los Angeles Administrative Code (LAAC) § 24.41(A)(1); Charter § 702(d). In addition, each committee that is controlled by a candidate who is subject to a mandatory campaign audit must also be audited. LAAC § 24.41(A)(2).

AUDIT PERIOD

The audit covered the period of January 1, 2013, through December 31, 2014.

Two other committees were audited separately but as part of the same election cycle: “Mitch O’Farrell for LA City Council 2013” (ID #1344170); and “Councilmember O’Farrell Officeholder Account 2013” (ID #1360328).

COMMITTEE BACKGROUND

Mitch O’Farrell was a candidate for Council District 13 in the general election that was held on May 21, 2013. The Committee was the campaign committee that Mr. O’Farrell controlled for that election. Mr. O’Farrell participated in the public matching funds program and received public funds for the general election. He was opposed in the race by John Choi, who also participated in the matching funds program. Mr. O’Farrell won the general election with 52.8 percent of the 26,425 votes cast.

Mr. O’Farrell filed a “Declaration of Intent to Solicit and Receive Contributions” with the Ethics Commission on March 6, 2013. The Committee filed a “Statement of Organization” with the Secretary of State on March 7, 2013, and the Committee’s identification number is 1356066.

The Committee’s treasurer was Jane Leiderman, whose office is located at 6380 Wilshire Boulevard, Suite 1612, Los Angeles, California 90048.

The Committee filed a “Termination Statement” with the Secretary of State on January 30, 2015, and the Committee was terminated effective December 31, 2014.

To manage its financial activity, the Committee maintained one campaign checking account at a financial institution located within the City, as required by Charter § 470(g). During the audit period, the Committee reported through its campaign statements an opening cash balance of \$0, total cash receipts of \$513,785, total cash disbursements of \$515,288, and a closing cash balance of \$0. Cash receipts include monetary contributions and miscellaneous increases to cash (matching funds, account interest, refund of deposits, etc.).

AUDIT SCOPE AND PROCEDURES

The audit included tests of the Committee’s records and transactions. The audit included but was not limited to the following general categories:

1. Compliance with laws governing the receipt of contributions, including loans;
2. Proper disclosure of contributions, including itemization when required, as well as the completeness and accuracy of the information disclosed;
3. Proper disclosure of disbursements, including itemization when required, as well as the completeness and accuracy of the information disclosed;
4. Proper disclosure of debts and obligations;
5. Accuracy of total reported receipts, disbursements, and cash balances, as compared to bank records;
6. Adequate recordkeeping for transactions;
7. Compliance with matching funds regulations and spending limits;
8. Complete and timely filing of state and City forms, statements, and reports;
9. Compliance with disclaimer and disclosure requirements for campaign communications; and
10. Other audit categories deemed necessary.

Audit reports and information gathered through audits are referred to the Ethics Commission’s enforcement division and may be referred to other appropriate law enforcement agencies.

CURED CONTRIBUTIONS

The Ethics Commission’s Excess Contribution Policy permits candidates and committees to cure contributions that are prohibited or exceed a contribution limit. In addition to meeting other criteria,

the contribution must be returned within a specified period of time to either the contributor or the City’s general fund. Contributions that are properly cured are not treated as violations, but they must be identified in audit reports. *See Excess Contribution Policy § C.3.*

The Committee properly cured the contributions that are identified in Attachment A.

AUDIT FINDINGS

Audit findings describe instances in which auditors conclude that a committee failed to comply with state or City law. A committee’s activities may also be monitored by the Ethics Commission’s enforcement division and other enforcement agencies. A four-year statute of limitations applies to an Ethics Commission enforcement matter, unless the alleged violation involves concealment or deceit. LAAC § 24.26(a)(2)(A).

Auditors concluded that the following findings were material in this audit.

Excess Contributions

A. Law

During the 2013 general election, candidates for City Council and their controlled committees were not permitted to accept contributions totaling more than \$700 from a single person. Charter §§ 470(c)(3), 702(h); Los Angeles Municipal Code (LAMC) §§ 49.7.3(A)(1), (B)(2)(a).

In addition, under LAMC § 49.7.4, contributions and expenditures from two or more persons must be aggregated and are considered to be made by a single person for the purposes of the City’s contribution limits if made by any of the following sets of contributors:

1. Two persons, one of whom controls the other’s contribution or expenditure activity.
2. A sponsored committee and its sponsoring organization (defined in Cal. Gov’t Code § 82048.7 and 2 Cal. Code Regs. § 18419).
3. Two entities, when the same individuals make up the majority of both boards of directors.
4. Two entities, when they share the same officers or a majority of officers (a member of the board of directors is not considered an officer for this purpose).
5. A corporation or limited liability company (“LLC”) that shares the same majority shareholders or members as or holds a majority of the voting rights in another corporation or LLC.
6. Two corporations in a parent-subsidiary relationship, provided that at least one of them is not publicly traded.
7. An individual and a corporation, LLC, firm, joint venture, syndicate, business trust, company, or other business entity (other than a sole proprietorship or a general or limited partnership) in which the individual owns an investment of at least 50 percent or holds a majority of the voting rights.
8. An individual and a sole proprietorship owned by that individual.

9. A general partner and a general or limited partnership in which the general partner owns an investment of at least 50 percent or holds a majority of the voting rights.

Aggregated contributions may not exceed the lowest permissible contribution amount for any of the aggregated contributors. LAMC § 49.7.4.

The Ethics Commission's electronic filing system allows committees to generate reports that highlight which contributors should be examined for excess contribution purposes. The report is based on contributors who share a similar last name, address, or employer, as reported by the committee, and is accessible through the electronic system at any time.

B. Aggregate Excess Contribution Findings

The Committee received and deposited three sets of aggregated contributions in excess of the \$700 per-person contribution limit. These aggregated contributions represent a total of \$5,100 in excess contributions. *See* Attachment B.

C. Committee Response

See Attachment B for detailed responses from the Committee.

D. Cumulative Excess Contribution Findings

The Committee received and deposited contributions from one person in excess of the \$700 per-person contribution limit. These cumulative contribution findings represent a total of \$150 in excess contributions. *See* Attachment C.

E. Committee Response

See Attachment C for detailed response from the Committee.

Attachments:

- A Cured Contributions*
- B Aggregate Excess Contributions*
- C Cumulative Excess Contributions*

Attachment A

Cured Contributions

Mitch O'Farrell for LA City Council 2013 - General (ID #1356066)

Set	Reason For Curing*	Contributor	Date Received	Amount	Cure Date	Cure Deadline
1	Aggregated	1645 NW LLC 6021 Hollywood Operating LLC	6/21/2013 6/21/2013	\$700.00 \$700.00	8/8/2013	10/14/2013
2	Aggregated	Carol Massie Massie Carol (Business)/McDonald's #5149	4/6/2013 6/19/2013	\$700.00 \$700.00	6/30/2013	10/14/2013
3	Aggregated	Multi-Family Builders Inc. Southern California Design LLC	7/16/2013 7/16/2013	\$700.00 \$700.00	7/25/2013 7/25/2013	4/16/2014 4/16/2014
4	Cumulative	Anastasi Construction Company Inc.	5/24/2013	\$1,400.00	6/18/2013	10/14/2013
5	Cumulative	Robert Champion Robert Champion	3/19/2013 5/16/2013	\$250.00 \$200.00	6/30/2013	10/14/2013
6	Cumulative	Susan Dilkes Susan Dilkes	5/20/2013 10/10/2013	\$300.00 \$500.00	10/11/2013	4/16/2014
7	Cumulative	Kamus + Keller Inc. Kamus + Keller Inc.	9/11/2013 3/24/2014	\$500.00 \$500.00	3/31/2014	10/14/2014
8	Cumulative	Rampart Building Services	5/24/2013	\$1,300.00	6/18/2013	10/14/2013

***Reasons for Curing a Contribution:**

Aggregated: Contributions from multiple persons must be treated as having been made by a single person when certain shared interests exist, such as those between a sole proprietorship and the sole proprietor, for purposes of the applicable per-person contribution limit.

Cumulative: Contributions from a single person may not exceed the applicable per-person contribution limit to a committee during an election.

Prohibited: Contributions from certain persons, such as lobbyists or contractors, are prohibited.

Attachment B

Aggregate Excess Contributions

Mitch O'Farrell for LA City Council 2013 - General (ID #1356066)

Set	Contributor	Date Received	Date Issued	Type	Transaction Number	Amount	Excess
1	4623 La Mirada LLC	4/6/2013	4/2/2013	Check	1342	\$700.00	
	Hancock Villa LLC	4/6/2013	4/2/2013	Check	1359	\$700.00	
	340 S. Kenmore LLC	4/22/2013	4/17/2013	Check	1144	\$700.00	
	1720 N. Harvard Partners LLC	4/22/2013	4/17/2013	Check	1115	\$300.00	
	1743 N. Garfield Partners LLC	4/22/2013	4/17/2013	Check	1127	\$500.00	
	1830 N. Kinsley Partners LLC	4/22/2013	4/17/2013	Check	1111	\$300.00	
	1836 N. New Hampshire LLC	4/22/2013	4/17/2013	Check	1122	\$500.00	
	5314 Franklin Partners LLC	4/22/2013	4/17/2013	Check	1099	\$300.00	
	5361 Russell Apartments LLC	4/22/2013	4/17/2013	Check	1170	\$700.00	
	5420 Russell Apartments LLC	4/22/2013	4/17/2013	Check	1141	\$700.00	
	5950 Franklin LLC	4/22/2013	4/17/2013	Check	1014	\$300.00	
	6000 Franklin Partners LLC	4/22/2013	4/17/2013	Check	1112	\$300.00	
	6333 Lexington LLC	4/22/2013	4/17/2013	Check	1127	\$500.00	<u>\$3,000.00</u>

Comment: Committee records indicate that all contributors share the same address. Committee records further indicate that all contributors are controlled by the same person or persons. Committee records do not indicate an attempt to cure the excess was made.

Committee *"This information was not available to us at the time the contributions were made. The fundraiser received*

Response: *an email with ownership breakdown for each company that committee believed put all these companies in compliance. The Committee never had any intentions to accept contributions over the limit and this was an oversight."*

2	6021 Hollywood Operating LLC	6/21/2013	6/20/2013	Check	300428	\$700.00	
	SBEEG Holdings LLC	6/21/2013	6/20/2013	Check	23942	\$700.00	
	Sea View Restaurants Inc. dba Gladstone's	6/21/2013	6/20/2013	Check	9111	\$700.00	<u>\$1,400.00</u>

Comment: Committee records indicate that 6021 Hollywood Operating LLC, SBEEG Holdings LLC, Sea View Restaurants Inc. and dba Gladstone's share the same address and are controlled by the same person or persons. Committee records do not indicate an attempt to cure the excess was made.

Committee *"At the time of the contribution, the Committee received a letter stating that SBEEG Holdings have no*

Response: *ownership or control over Sea View Restaurants Inc. dba Gladstones. Further research on Secretary of States website showed that none of these companies or individuals have control over each of these entities."*

Auditor

Response: Third party documentation shows that aggregation is required.

3	Cafe Stella Inc.	5/13/2013	5/9/2013	Check	6312	\$700.00	
	Zonetwentysix LLC	5/13/2013	5/9/2013	Check	678	\$700.00	<u>\$700.00</u>

Comment: Committee records indicate that all contributors share the same address. Committee records further indicate that all contributors are controlled by the same person or persons. Committee records do not indicate an attempt to cure the excess was made.

Committee *"These companies have different names and were signed by different individuals. The Committee didn't*

Response: *believe there was an aggregation issue."*

Auditor

Response: Contributor provided signed verification indicating that aggregation is required.

Total: \$10,000.00 \$5,100.00

Attachment C

Cumulative Excess Contributions

Mitch O'Farrell for LA City Council 2013 - General (ID #1356066)

Set	Contributor	Date Received	Date Issued	Type	Transaction Number	Amount	Excess
1	W. Rusty F. Millar	3/11/2013	3/9/2013	Check	2664	\$500.00	
	W. Rusty F. Millar	4/30/2013	4/3/2013	Check	2589	\$200.00	
	Rusty Millar	1/24/2014	1/24/2014	Credit Card	Not Provided	\$150.00	<u>\$150.00</u>
Comment: Committee records do not indicate that an attempt to cure the amount in excess was made.							
Committee: <i>"We believe last contribution of \$150 received on 1/24/2014 was intended for Officeholder account</i>							
Response: <i>and was inadvertently deposited to Mitch O'Farrell for LA City Council 2013- General Committee. Due to the way the donor provided his name on the check/credit card- it was recorded as two different contributors and wasn't caught as excess, therefore unintentionally creating an overage of \$150."</i>							
Total:						<u>\$850.00</u>	<u>\$150.00</u>

Los Angeles City Ethics Commission
EARLY RESOLUTION AUDIT AGREEMENT

The Los Angeles City Ethics Commission (Ethics Commission) issued audit reports for the following campaign committees on June 8, 2017: “Mitch O’Farrell for LA City Council 2013”, “Mitch O’Farrell for LA City Council 2013 – General”, and “Councilmember O’Farrell Officeholder Account 2013”. The reports contain findings of potential violations of the City’s campaign finance laws, and this agreement resolves those findings under the Ethics Commission’s Audit Policy.

<u>Participants</u>			
Mitch O’Farrell “Mitch O’Farrell for LA City Council 2013” (ID # 1344170) “Mitch O’Farrell for LA City Council 2013 – General” (ID # 1356066) “Councilmember O’Farrell Officeholder Account 2013” (ID # 1360328)			
<u>Election</u>			
2013 Regular Election			
<u>Finding</u>	<u>City Law</u>	<u>Number of Findings</u>	<u>Required Payment</u>
Accepting excess contributions.	Charter § 470(c)(3); LAMC §§ 49.7.3(B)(2)(a), 49.7.4	4	\$4,000
		<i>Total:</i>	<i>\$4,000</i>

STATEMENT BY PARTICIPANTS

I admit to the findings described above and accept responsibility for them. I voluntarily request that the Ethics Commission resolve this matter in accordance with the Audit Policy.

I understand that I must return an original signed copy of this agreement, along with a cashier’s check payable to “City of Los Angeles General Fund” for the total amount above, to the Ethics Commission by July 24, 2017.

I voluntarily waive all procedural rights under Los Angeles City Charter § 706 and Los Angeles Administrative Code §§ 24.21–24.29, including but not limited to the right to receive a probable cause report, a determination of probable cause, and a public accusation; the right to have liability determined through an administrative hearing ; and the right to personally appear at an administrative hearing, to subpoena and cross-examine witnesses, and to have the Ethics Commission decide the case.

I voluntarily waive, to the full extent of the law, the right to seek judicial review of, appeal, or collaterally attack the findings in the audit report, the related payment, or any action by the Ethics Commission or its staff regarding the audit findings.

I understand that if I breach this agreement at any time, the Ethics Commission may commence enforcement proceedings for the findings that are the subject of this agreement and may use any factual admissions I made in this agreement in an enforcement proceeding.

I understand that the Ethics Commission may commence enforcement proceedings against me for other violations not identified in this agreement and for the audit findings identified in this agreement if evidence emerges that I was not truthful regarding those findings.

I understand that this agreement is not binding on any other regulatory authority but that I may ask the Ethics Commission to alert other authorities to the agreement.

I understand that I may not alter this agreement in any way. I understand that this agreement will be incorporated into all related final audit reports and will be a public record.

Date: 6-30-2017



Mitch O'Farrell

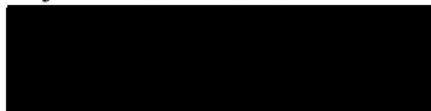
On behalf of the following:

- Mitch O'Farrell
- "Mitch O'Farrell for LA City Council 2013"
- "Mitch O'Farrell for LA City Council 2013 – General"
- "Councilmember O'Farrell Officeholder Account 2013"

STATEMENT BY EXECUTIVE DIRECTOR

I accept this original executed agreement and the accompanying payment as resolution of all findings identified in the related audit reports, subject to the terms of the Audit Policy.

Date: 5 July 2017



Heather Holt