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To: Ian Siegel
President, Nassau County 9/11 Memorial Foundation, Inc.

From: Aline Khatchadourian

Date: November 24, 2009

Subject: Audit of Nassau County 9/11 Memorial Foundation, Inc.

Background

The Nassau County 9/11 Memorial Foundation Inc. (“Foundation”) was established to raise funds to construct and maintain a permanent memorial for the Nassau County (the “County”) residents who were victims of the attacks of September 11, 2001. The Foundation is a tax exempt organization under Internal Revenue Code § 501(c)(3). The plan for the memorial was announced by the County Executive and land was donated by the County under a special use permit in 2002. The architect for the memorial was selected in May 2003 as the result of a design competition. The memorial was completed and dedicated in the Fall of 2007 and was gifted to Nassau County in 2008.

The Officers and Directors of the Foundation were appointed by the County Executive and serve without compensation. The President of the Foundation has stated that the Board anticipates dissolution of the Foundation since the memorial has been given to the County. The Foundation does not have audited financial statements for 2004 and 2005. We were informed by the President of the Foundation that these audits are required by the New York State Attorney General’s Charities Bureau (the “Charities Bureau”) in order to approve the dissolution. The Foundation may make a motion in court to waive the audit requirement, which would need to be approved by the Attorney General. As of September 30, 2007, the Foundation had only \$2,210 in its bank account.

Audit Scope and Methodology

The Comptroller's Office conducted a review of the Foundation for the period December 17, 2002 through September 30, 2007 to determine if the Foundation expended its \$500,000 grant from Nassau County in compliance with the terms of the grant. We also reviewed the records of the organization to determine if other funds raised under the auspices of the Foundation were expended in accordance with the objective of the organization. We reviewed the Board minutes and interviewed the President of the Foundation to obtain an understanding of the Foundation's operating procedures, financial practices, and accounting controls over cash disbursements and cash receipts. We reviewed the documentation submitted by the Foundation supporting the expenditures and receipts of cash. The audit was conducted at the suggestion of Legislative Minority Leader Peter Schmitt.

Foundation Receipts and Disbursements

The 9/11 Memorial Foundation deposited \$841,591¹ to bank accounts from December 2002 through September 2007. This included a \$400,000 grant from Nassau County to be used for expenses associated with the construction of the Memorial. The grant was later increased to \$500,000. The balance of \$341,591 was raised from special events and donations. In addition, the County relocated a drainage pipe to accommodate the construction of the Memorial at a cost of \$169,340, paid for under a requirements contract by the Department of Public Works.

From December 2002 through September 2007, the Foundation's actual bank disbursements totaled \$839,381. The expenditures were primarily for materials (\$503,876), labor (\$131,128), and the architect (\$81,359). A Statement of Activities from inception through September 30, 2007 is presented below:

¹ The Foundation recorded total receipts for the period October 2003 - August 2007 of approximately \$827,543. The discrepancy between actual receipts and recorded receipts is discussed in *Cash Receipts*.

NASSAU COUNTY 9/11 MEMORIAL FOUNDATION, INC.
Statement of Activities - Compiled from Foundation Bank Statements
December 2002 through September 2007

	<u>Total</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>September 2007</u>
Cash Receipts:							
Nassau County Grants	\$500,000	\$0	\$0	\$0	\$400,000	\$100,000	\$0
Donations	341,591	210	48,546	166,696	98,465	15,570	12,104
Total Cash Receipts	841,591	210	48,546	166,696	498,465	115,570	12,104
Construction Expenses:							
Architect	81,359	0	26,000	47,500	7,859	0	0
Materials	503,876	0	0	23,717	350,231	116,916	13,012
Labor	131,128	0	0	0	131,128	0	0
Miscellaneous	6,100	0	0	0	49	4,865	1,186
	<u>722,463</u>	<u>0</u>	<u>26,000</u>	<u>71,217</u>	<u>489,267</u>	<u>121,781</u>	<u>14,198</u>
General & Administrative Expenses:							
Insurance	29,001	0	0	1,481	1,558	19,140	6,822
Fund Raising Expense	35,131	0	0	17,036	16,234	1,861	0
Other (1)	52,786	0	1,775	1,733	26,560	8,410	14,308
Total General & Administrative	116,918	0	1,775	20,250	44,352	29,411	21,130
Total Expenses	839,381	0	27,775	91,467	533,619	151,192	35,328
Changes in Net Assets	\$2,210	\$210	\$20,771	\$75,229	(\$35,154)	(\$35,622)	(\$23,224)

	<u>Total</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>September 2007</u>
(1) Other Expenses:							
Treasurer of Nassau County - check deposited in error	\$ 14,247				\$ 14,247		
Petty cash	19,151			\$ 1,200	8,342	\$ 8,136	\$ 1,473
Professional fees	4,674						4,674
Utilities	2,806						2,806
Miscellaneous	11,908		\$ 1,775	533	3,971	274	5,355
Total Other Expenses	\$ 52,786		\$ 1,775	\$ 1,733	\$ 26,560	\$ 8,410	\$ 14,308

Accounting Records

The Foundation's accounting records were not maintained in accordance with Generally Accepted Accounting Principles ("GAAP") as required under the terms of the Foundation's Nassau County grant. The Foundation did not maintain a general ledger to record its financial transactions. Instead, its books and records consisted of an Excel file listing cash receipts and disbursements. The Excel file consisted of a simple summary of deposits and disbursements maintained in chronological order. The Treasurer maintained the Excel file with no consistent evidence of Board review or approval.

The Excel file covered the period October 2003 through August 2007. However, the Foundation did not provide records of contributions received or disbursements made for the time period it maintained its original bank account (December 17, 2002 – October 10, 2003). The Foundation's financial records were incomplete because a comparison of the bank statements to the Excel file revealed that the Excel file did not contain the record of all receipts and disbursements. In

September 2008, the Foundation's accountant provided a detailed compilation of cash receipts and disbursements for this time period. The Foundation's original bank account was closed and the \$26,980 balance was transferred to a new account in October 2003.²

Bank Accounts

Bank statements were kept in more than one box of Foundation documents. At the time of our audit, bank statements were missing for 5 months of the audit period³ and therefore, we needed to perform additional testing to verify whether all deposits and disbursements were accurately recorded. We requested copies from the Foundation and, in March 2008, we received copies of three of the five missing bank statements without the canceled checks. In June 2009, we received copies of the remaining bank statements, along with copies of the missing cancelled checks, directly from the Foundation's bank. We were able to trace receipts and disbursements to the Foundation's Excel file; with the receipt of all of the cancelled checks, we were able to verify the payees, amounts and endorsements.

At the Entrance Conference, both the President and the Treasurer of the Foundation acknowledged that bank reconciliations were not performed. The Foundation incurred bank overdraft charges of \$33 and \$66 for March 2004 and May 2005, respectively. These charges might have been avoided if monthly reconciliations of bank balances to cash balances recorded in the accounting records had been performed. The Board minutes of May 12, 2004 reflect that a motion was unanimously approved to designate one of the Board members as Financial Secretary with the responsibility to perform bank reconciliations, which were to be forwarded to the President or Chairperson for approval. We did not find any evidence that the Financial Secretary function was ever performed.

Required Tax Filings

The IRS requires that tax exempt organizations file an annual tax return⁴ (Form 990). The President of the Foundation informed the auditors that the tax returns from 2003 to 2006 were not filed until 2007. The Foundation's external accountant informed us that he used the bank account activity as a basis for completing the IRS Form 990's. We compared the Foundation's Form 990's to its cash receipts and disbursements (per the bank statements) and found a cumulative understatement of net assets of \$934.

² The \$26,980 balance was transferred to a new account which was opened on 10/10/08 at the same bank. The two bank accounts were used simultaneously during the period 10/10/03 to 10/24/03.

³ The months that were missing were: May 2003, August 2003, April 2004, October 2005, and July 2007. The Foundation provided copies of the April, October, and July bank statements (without copies of cancelled checks). We also requested statements for September – December 2007. The Foundation provided original statements for September and December 2007, and obtained copies of October and November 2007 statements from the bank. In June 2009, the bank provided copies of all the missing bank statements and cancelled checks.

⁴ *Return of Organization Exempt from Income Tax* (Form 990).

Cash Receipts

We found that the Excel file did not include all receipts and that all receipts included in the Excel file were not shown as deposits on the bank statements. The differences are listed and reconciled below:

- The bank account showed 14 deposits totaling \$47,309 that were not shown as receipts in the Foundation's Excel file. However, in September 2008, the external accountant provided the auditors with a listing of the donors to support \$32,005 of the deposits not recorded by the Foundation. The source of the remaining deposits totaling \$15,304 is unknown.
- When the original bank account was closed, the net remaining account balance of \$26,980 was transferred to the new account, but shown as a cash receipt in the Excel file.
- The Excel file contained five receipts totaling \$6,281 that were not shown on the bank statement as deposits

	Deposits per Bank Statements	Cash Receipts per Excel File
Recorded Receipts	\$841,591	\$827,543
Add: Unrecorded Receipts - Deposits shown on Bank Statements that were not included in Foundation's Excel file		\$47,309
Less: Funds transferred from the old account to the new account - but shown as a cash receipts		(\$26,980)
Add: Undeposited Funds - Receipts shown on Excel file that were not shown as deposits on the bank statements	\$6,281	
Actual Receipts	<u>\$847,872</u>	<u>\$847,872</u>

Based on the dates recorded on the Excel file, we determined that 11 transactions, totaling \$95,680, had not been deposited within five business days of receipt.

Cash Disbursements

The auditors compared cash disbursements listed in the Foundation's Excel file to its bank statements to determine if the amounts were posted accurately. We found that the Excel file was incomplete because it covered a shorter time period than the bank statements. The Excel file covered October 2003 to August 2007, and totaled \$827,022 while the disbursements per the bank statements occurred from December 2002 to September 2007 and totaled \$839,381. The \$12,359 difference was primarily due to funds disbursed from the bank account in periods not covered by the Excel file. This included \$7,075 for expenses incurred in September 2007 and \$5,000 in fees paid to the architect prior to October 2003. The remaining difference was due to posting errors to the Excel file that were not detected due to the Foundation's failure to perform bank reconciliations.

The terms of the County grant state that the “the Foundation shall apply the Grant solely toward the Foundation’s expenses associated with the construction of the Memorial and for no other purposes.” We could not verify the Foundation’s compliance with the grant requirement that the funds be used exclusively for construction expenses because monies received from the County grant, donations received from the public, construction costs and fund raising expenses were not recorded separately on the Excel file.

We reviewed 22 cash disbursements (excluding petty cash) totaling \$346,217 from October 2003 to August 2007. We examined supporting documentation, approvals and cancelled checks for the invoices paid and found multiple exceptions including:

- 12 checks, totaling \$321,057 that did not have two signatures as required by the Board;
- four vendor invoices totaling \$130,984 that were not approved by the Board;
- two disbursements, totaling \$21,417 that were missing supporting invoices; and
- one vendor was paid \$131,128 for labor costs. The Board initially approved only \$90,187 of this cost. The remainder was paid in October 2005, however, Board minutes indicate that the Board did not approve the remaining \$40,941 payment to the vendor until June 2008.

Check signing

The Board did not consistently follow its policy concerning check signing. At the inception of the Foundation’s activities in early 2003, checks were signed by both the Chairperson and by the President as the two authorized signatures, consistent with the Board’s policy. On August 29, 2003, the Board designated that checks for \$200 and under only required the President’s signature, and that checks over \$200 required two of three designated Board members’ signatures. On October 3, 2003 the Board resolved to authorize the Treasurer to sign checks under \$200. However, all checks issued from January 1, 2004 through July 2004 were signed by the Chairperson alone, regardless of the threshold limit set by the Board in 2003.

On May 12, 2004 the Board resolved to remove the Treasurer as a signatory, based on a recommendation from our Office.⁵ However, revised corporate resolutions were never provided to the bank and the Treasurer continued to sign checks. At the January 26, 2005 meeting, the Board authorized the President to sign checks under \$5,000 without Board approval and increased the Treasurer’s check signing authority to \$500 and under. Our sample of 22 cash disbursements between October 2003 and August 2007 identified 14 checks totaling \$276,078 (from the period February 1, 2005 to October 12, 2005) that were signed by the Treasurer, after the Board had directed that the Treasurer be removed as a signatory from the account. From August 2004 through August 2007, the Treasurer alone signed all the checks, regardless of the dollar limit.

Internal controls dictate that bank statements be received unopened by an individual who has no signing authority on an account. However, during the period that the Chairperson and the

⁵ A review by this Office of County-related bank accounts not recorded in NIFS, the County’s general ledger system in May 2004, recommended that the Foundation not give check-signing authority to the person in charge of reconciling the Foundation’s bank accounts.

Treasurer had signing authority for the bank accounts, the bank statements were delivered directly to each individual's respective home.

Contributions

The Foundation received \$341,591 in cash from private donors. It published the names of all donors, but not the donated amounts. The Foundation stated to the auditors that cash contributions were acknowledged with a thank you letter and we found copies of thank you letters for donations.

The Board did not have any policy for recognizing, or placing a value on, materials, equipment and services donated towards the construction of the memorial. The terms of the grant require that the Foundation maintain accounting records in accordance with GAAP. The Statement of Financial Accounting Standards No. 116 "*Accounting for Contributions Received and Contributions Made*" requires contributions to be recognized as revenues in the period received at their fair value.⁶ The Foundation did not maintain a record or log to account for donated equipment, materials, and services (including labor). There were no files indicating that letters were sent to all vendors who donated materials, equipment and services, which would set forth a valuation that could be used by the donor for tax purposes. We reviewed the Foundation's dedication journal which listed the names of donors who contributed to the Foundation. Included in the list of donors were 14 vendors of the Foundation, who were paid a total of \$249,876 during the period of the audit. Due to the lack of records, we could not identify the materials and services that were donated compared to the items for which vendors billed the Foundation.

The President of the Foundation explained to the auditors that the workers would come to the job site with their own materials and donate their time.

Petty Cash Disbursements

We compared the total petty cash payments from the cash disbursement file of \$19,151 to the petty cash summaries of receipts (batches). These batches, which contain the supporting documentation, totaled only \$15,039. The \$4,112 difference represented missing batches that could not be verified.

We found that all petty cash payments were signed by the Treasurer. We also found that some petty cash expenditures may not have been appropriate. Approximately \$340 of petty cash payments were for items that we could not relate to the project such as fabric softener, bleach, and other personal items.

Other Findings

In addition to the findings related to Board oversight issues of check signing and bank statements, we noted the following:

⁶ Under the Statement of Financial Accounting Standards No. 116, a contribution is defined as an unconditional transfer of cash or other assets, such as, materials and services.

- The Charities Bureau publications “*Right From the Start: Responsibilities of Directors and Officers of Not-for-Profit Corporations*” and “*Internal Controls and Financial Accountability for Not-for-Profits*” define the responsibilities of a not-for-profit Board.⁷ Board responsibilities as defined by the Charities Bureau were not consistently followed.
 - Accounting records were not maintained in accordance with GAAP;
 - A procurement process was not consistently followed for purchases of materials and services;
 - Budgets for the construction of the project and related expenses were not established as a measure of cost control; and
 - The Board minutes did not indicate the consistent approval of disbursements made to the subcontractors and there was no supporting documentation, such as purchase orders or receiving reports, supporting disbursements.

- *Segregation of Duties* - There was a lack of internal controls surrounding financial functions. After August 2004, one individual, the Treasurer, made bank deposits, wrote checks, paid bills without consistent approval from another Foundation member, was the sole signatory on checks, and received the bank statements directly.

Audit Recommendations:

The Foundation’s Board should:

- make certain that any further checks drawn on the bank account have been signed in accordance with the authorities granted by the Board, that disbursements have been approved by the Board and documented in Board resolutions;
- perform monthly bank reconciliations and reconcile to the Foundation’s cash receipt and disbursement Excel file for present and prior periods to ensure all financial records are accurate and posted in the correct accounting period;
- reconcile the difference of \$934 between the four years of Form 990 tax returns to the bank statements to ascertain that all expenses reported are correct and recorded in the correct accounting period and file an amended Form 990, if necessary;
- investigate the five transactions totaling \$6,281 posted to the cash receipt Excel file where no bank deposits could be found and, if necessary, obtain reimbursement for the missing receipts from the individual responsible for bank deposits; and
- investigate the missing receipts for petty cash payments of \$4,112 and, if necessary, obtain reimbursement to the Foundation for those payments that are unsupported, as well as, review the \$340 in questionable petty cash expenditures and obtain reimbursement, if necessary.

⁷ See www.oag.state.ny.us/charities/charities.html.

The matters covered in this report have been discussed with officials of the Foundation during this audit and at an Exit Conference held on February 17, 2009. On January 30, 2009, we submitted a draft report to the Foundation with a request for comments. The Foundation's comments, received on March 25, 2009, are included as an addendum to this report. Based upon subsequent information received from the Foundation and its bank, we revised our audit report and resubmitted a draft to the Foundation on November 6, 2009.

cc: The Honorable Diane Yatauro, Presiding Officer Nassau County Legislature
The Honorable Peter Schmitt, Legislative Minority Leader

**NASSAU COUNTY 9/11 MEMORIAL FOUNDATION AND
AUDITOR'S FOLLOW-UP**

March 25, 2009

Aline Khatchadourian
Deputy Comptroller for Audit and Special Projects
Office of the Comptroller
240 Old Country Road
Mineola, NY 11501

Dear Ms. Khatchadourian:

RE: Audit of Nassau County 9/11 Memorial Foundation, Inc.

This is in response to your draft memo of January 30, 2009 on the audit of the Nassau County 9/11 Memorial Foundation. As you know, the work performed by the Foundation was the collection of literally thousands of hours of volunteer work and fundraising efforts.

Foundation Receipts and Disbursements

As noted in your report, the Foundation received \$500,000 in grants from Nassau County and raised \$341,591 from special events and donations and close to another \$1 million in goods and in-kind services.

I would like to address the audit recommendations stated in the above mentioned letter. We also continue to maintain that any money raised prior to October 10, 2003 – before the Foundation was an actual entity – should not be included in the scope of your audit, as well as any money raised outside of the \$500,000 received in grants from the County.

Background

We are currently working with our attorney, our accountant and the Attorney General's office to dissolve the Foundation sometime this year. Our task is completed.

Audit Recommendations:

You had six recommendations for us and we are responding to each in order.

1. Going forward, the Board will make certain that all checks drawn on the bank account have been signed by the authorized signatories in accordance with the authorization granted by the Board and that disbursements have all been approved and documented by the Board as well.

Auditor's Follow-Up Response

We concur with the corrective actions to be implemented by the Foundation.

2. Concerning the bank statements of May 2003, August 2003, April 2004, October 2005 and July 2007 – you have copies of the bank statements from those dates that were given to you from the bank. Despite our efforts to obtain the original bank statements listed in item 2 of your recommendations, we have been unable to obtain originals and have provided you with the copies and believe that that is adequate to satisfy your request. We will continue our efforts including but not limited to continuing to contact the bank to obtain the relevant statements.

Auditor's Follow-Up Response

In subsequent discussions with the Foundation's management, we requested that they authorize the Foundation's bank to retrieve the missing statements and cancelled checks from the bank's archives, and provide them directly to us.

In June 2009, we received copies of the bank statements for May 2003 and August 2003 directly from the Foundation's bank, along with copies of the cancelled checks for April 2004, October 2005, and July 2007. Therefore, we were able to verify that the disbursement information recorded on the Foundation's Microsoft Excel file agreed to the payment evidence, such as the payee, endorsement, and amount.

The Treasurer will perform monthly bank reconciliations and reconcile to the Foundation's cash receipt and disbursement files going forward.

Auditor's Follow-Up Response

We concur with the corrective actions implemented by the Foundation to perform bank reconciliations going forward. We reiterate our recommendation that the Foundation perform bank reconciliations for the prior periods as well.

3. We are in the process of hiring a new CPA to produce audited financial statements to help reconcile this information and also help us with the dissolution proceedings with the New York State Attorney General's office.

Auditor's Follow-Up Response

We concur with the corrective actions implemented by the Foundation.

4. The Foundation never accepted cash. We only accepted checks. We cannot explain why these five transactions were posted and why no bank deposits can be found. We assert that every check that was received by the Foundation was deposited by our Foundation's Treasurer. Further, we must point out that the amount in question, relative to the overall cost and scope of the project, is insignificant.

Auditor's Follow-Up Response

If the Foundation's assertion that all checks received were deposited is correct, then erroneous entries must have been made to the Excel file. Timely reconciliations would have detected these errors and would have facilitated their correction.

5. We have investigated the receipts which you have advised are missing in petty cash in the amount of \$4,112 but do date have not been able to locate any such receipts. As we told you, our petty cash was handled solely by two World War II Veterans that were on the job site every day. Petty cash was used to provide drinks and food for our volunteer union workers as well as purchasing minor pieces of equipment (hammers, nails, etc.). The questionable \$340 petty cash expenditure was for cleaning products related to the fountain. We have 100% trust in the integrity and honesty of the individuals that were handling these petty cash funds and any receipts that are missing are, simply, just missing. Again, the amounts in question relative to the size and scope of the overall project are insignificant.

Auditor's Follow-Up Response

The Foundation should have kept receipts for all petty cash expenditures. The questionable \$340 petty cash expenditures included non-cleaning items and should be reviewed.

Cash Disbursements

While the Foundation's records may not have been maintained in accordance with GAAP, we want to reiterate that the Board was comprised of volunteers without compensation who may not have had the requisite accounting expertise.

It is not mentioned in your recommendations, but the vendor you referred to that received payment in the amount of \$130,984 that you allege was not approved by the Board, is simply not true. I am not sure why the minutes do not reflect that, however, the Board passed a resolution at a later date to again show that these payments were indeed authorized.

Auditor's Follow-Up Response

Minutes of Board meetings should be accurately maintained and approval for disbursements should be properly obtained before payments are made.