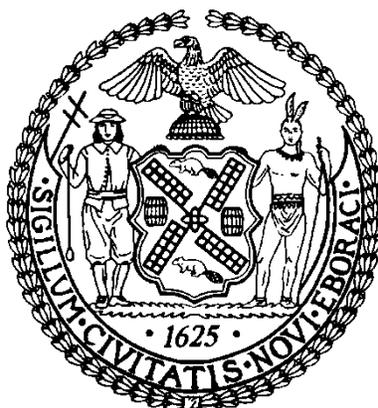


**CITY OF NEW YORK
OFFICE OF THE COMPTROLLER**

**John C. Liu
COMPTROLLER**

FINANCIAL AUDIT

**Tina Kim
Deputy Comptroller for Audit**



**Follow-up Audit Report on the Compliance of
South Beach Restaurant Corporation
with Its License Agreement**

FM11-135F

October 11, 2011



THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
1 CENTRE STREET
NEW YORK, N.Y. 10007-2341

John C. Liu
COMPTROLLER

October 11, 2011

To the Residents of the City of New York:

My office has audited South Beach Restaurant Corporation (SBR&C) to determine whether the concessionaire implemented the recommendations made in a previous audit entitled *Audit Report on the Compliance of South Beach Restaurant Corporation with Its License Agreement* (Audit No. FM09-091A, issued March 18, 2010). We perform follow-up audits of City concessionaires as a means of ensuring that concessionaires comply with their license agreements and pay license fees due the City.

The current follow-up audit disclosed that of the four recommendations originally made (two made to South Beach and two made to the Department of Parks and Recreation (Parks)), SBR&C implemented one recommendation and partially implemented the other recommendation. As a result, SBR&C has improved its internal controls over reporting and recording of revenue. However, SBR&C still does not maintain on file contracts for all the vendors that it does business with. We found that Parks implemented both recommendations made in the prior report.

The audit recommends that SBR&C officials maintain on file a contract for every vendor that it does business with.

The results of the audit have been discussed with officials of SBR&C and Parks, and their comments have been considered in preparing this report. Their complete written responses are attached to this report.

If you have any questions concerning this report, please e-mail my audit bureau at audit@comptroller.nyc.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "JCL", written over the printed name "John C. Liu".

John C. Liu

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The City of New York
Office of the Comptroller
Financial Audit

**Follow-up Audit Report on the Compliance of
South Beach Restaurant Corporation
with Its License Agreement**

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AUDIT REPORT IN BRIEF

This follow-up audit determined whether the four recommendations made in the previous audit entitled *Audit Report on the Compliance of South Beach Restaurant Corporation With Its License Agreement* (Audit No. FM09-091A, issued March 18, 2010) were implemented. Two of those recommendations were made to the South Beach Restaurant Corporation (SBR&C) and two were made to the New York City Department of Parks and Recreation (Parks).

The prior audit evaluated whether SBR&C maintained adequate internal controls over the recording and reporting of its gross receipts derived from its restaurant and catering operation.

The prior audit found that SBR&C did not maintain adequate controls over the recording and reporting of its restaurant gross receipts processed through its computerized point-of-sale (POS) system, did not include \$172,209 in revenue from preferred vendors in its monthly reported gross receipt statements to Parks, and did not maintain adequate records or contracts for this revenue. Our review of SBR&C's internal controls over its restaurant operations revealed certain weaknesses in the design and operation of the POS system. Specifically, the POS system did not guarantee the generation of sequentially numbered checks and the system's compensating control feature (non-resettable total)¹, designed to ensure the integrity of the restaurant's financial transactions contained small but noteworthy discrepancies. We found no evidence of wrongdoing, but the limitations of the POS system prevented us from being reasonably assured that all restaurant income was reported to Parks.

Consequently, SBR&C owes Parks \$6,888 in additional fees. Subsequent to the issuance of the prior report, SBR&C paid the \$6,888 that was due.

¹ The non-resettable total feature is a perpetual money counter built into the POS system.

Audit Findings and Conclusions

The current follow-up audit disclosed that SBR&C implemented one recommendation and partially implemented the other recommendation. SBR&C has improved its internal controls over guest check revenue reporting. The restaurant's POS system produces Manager Activity Reports that now account for any check number not included in the Sales Journal Report. SBR&C has also improved its internal controls over preferred vendor revenue reporting, but still does not maintain contracts for all of its preferred vendors. We found that Parks implemented both recommendations made in the prior report.

Audit Recommendation

To address the issue from the previous audit that still exists, we recommend that SBR&C officials maintain on file a contract for every preferred vendor that it does business with.

Agency Response

In its response, SBR&C agreed with the audit's findings and recommendations and described the steps it has taken to implement the report's recommendation. Parks officials agreed with the audit findings and recommendation.

INTRODUCTION

Background

On November 9, 2000, the Department of Parks and Recreation (Parks) entered into a 20-year license agreement with the South Beach Restaurant Corporation (SBR&C) to renovate, operate, and maintain the South Fin Grill (restaurant), the Vanderbilt at South Beach (catering facility), and the Boardwalk Café (snack bar) all located at 300 Father Capodanno Blvd. in Staten Island. Construction delays postponed the opening of the concession, leading to a modification of the license agreement term to cover June 1, 2005, through May 31, 2025.

Under the agreement, during operating year 2011 (June 1, 2010, to May 31, 2011), SBR&C was required to pay the higher of either a minimum annual fee of \$65,000 or 5 percent of any gross receipts derived from the operation of the licensed premises. SBR&C reported \$6,930,330 in gross receipts and paid Parks \$346,708.

Our previous audit objective was to determine whether SBR&C maintained adequate internal controls over the recording and reporting of its gross receipts derived from its restaurant operation.

Objectives

The objective of this follow-up audit was to determine whether the four recommendations made in the previous report entitled *Audit Report on the Compliance of South Beach Restaurant Corporation With Its License Agreement* (Audit No. FM09-091A) were implemented.

Scope and Methodology Statement

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

The scope period of this follow-up audit was May 2011. Please refer to the Detailed Scope and Methodology at the end of the report for the specific procedures and tests that were conducted.

Discussion of Audit Results

The matters covered in this report were discussed with SBR&C and Parks officials during and at the conclusion of this audit. A preliminary draft report was sent to these officials and discussed at an exit conference on September 8, 2011. A draft report was submitted to SBR&C and Parks officials on September 8, 2011, with a request for comments. We received a written response from SBR&C officials on September 15, 2011, and a written response from Parks officials on September 22, 2011.

In its response, SBR&C officials agreed with the audit's findings and recommendations and described the steps they have taken to implement the report's recommendation. Parks officials agreed with the audit findings and recommendation. The full texts of the comments are included as addenda to this report.

RESULTS OF THE FOLLOW-UP AUDIT

This follow-up audit determined that of the two recommendations made to SBR&C, one was implemented and one was partially implemented. SBR&C has improved its internal controls over guest check revenue reporting. The restaurant's POS system produces Manager Activity Reports that account for any check numbers not included in the Sales Journal Report. SBR&C has also improved its internal controls over preferred vendor revenue reporting, but has not properly maintained contracts for all of its preferred vendors. We found that Parks implemented both of the recommendations made in the previous report.

Previous Finding: "Internal Control Weakness Over Restaurant Operations"

Previous Recommendation #1: SBR&C should "Ensure that all pre-numbered restaurant guest checks are accounted for."

Previous SBR&C Response #1: "The recommendation that all pre numbered checks are accounted for sequentially is not something we have control of as the POS system is specifically designed not to use sequentially numbered checks. The POS system is specifically designed to use a non resettable total to balance and avoid fraud. We are aware that the Comptroller's office did find some minor deficiencies with the non resettable totals and we are working with POSitouch and CC Productions to verify that the non resettable totals are working properly. One of our procedures is to monitor any discrepancies to the non resettable totals and, in the rare occasion of a discrepancy, do report the variance to CC Production for clarification and resolution of the fault. We will continue to update the Parks Department in regards to the resolution of the discrepancies that were uncovered by the Audit as they are made available to us."

Current Status: IMPLEMENTED

Check numbers that are not included in the Sales Journal Report are now accounted for by the POS system in the Manager Activity Report.² The Manager Activity Report specifically itemizes and identifies any check number that was not used. Furthermore, based on our analysis of the General Ledger, Sales Journal Reports, Manager Activity Reports, and Monthly Reports of Gross Receipts, we were able to conclude that SBR&C's revenue from restaurant sales matched the revenues it provided to Parks for the month of May 2011. We were able to appropriately trace revenues from the Sales Journal Reports to the General Ledger. Therefore, we consider this recommendation to be implemented.

Previous Finding: "\$172,209 of Unreported Preferred Vendor Income"

Previous Recommendation #2: SBR&C should "Maintain all preferred vendor contracts, institute thorough recording and reporting procedures to track preferred vendor receivables, and accurately account for all preferred vendor income and report it at the time of receipt."

² The Sales Journal Check Listing by Check # Report lists each guest check and the corresponding revenue associated from each individual restaurant transaction.

Previous SBR&C Response #2: “We have implemented procedures to ensure that Preferred Vendor contracts are maintained properly. Also, these procedures will ensure that the Preferred Vendor income is accurately recorded and reported to the Parks Department each month.”

Current Status: PARTIALLY IMPLEMENTED

Our analysis of SBR&C’s records found that all preferred vendor revenue posted as a receivable on the Preferred Vendor Revenue Spreadsheets for the month of May 2011 was collected and recorded on the General Ledger and the Monthly Report of Gross Receipts submitted to Parks. However, SBR&C does not maintain on file all of the preferred vendor contracts. SBR&C was only able to provide to us 22 of the 24 preferred vendor contracts. Therefore, we consider this recommendation to be partially implemented.

Recommendations for Parks

Previous Recommendation #3: Parks should “Ensure that SBR&C institutes an effective system of controls to account for all pre-numbered restaurant guest checks.”

Previous Recommendation #4: Parks should “Conduct a follow-up audit to ensure that SBR&C has taken corrective action to implement those recommendations cited in this report.”

Previous Parks Response: “Parks agrees with both Recommendations, and will perform a follow up audit or compliance review to ensure that SBR has implemented these Recommendations.”

Current Status: IMPLEMENTED

Parks conducted a follow-up audit that was issued on January 31, 2011. Parks reviewed the issues that were identified in our prior report and reported that SBR&C fully complied with our previous recommendations. Both the Comptroller’s and Parks’ follow-up audits accounted for all pre-numbered guest checks. The enhanced controls instituted by SCR&C over the accounting of all guest checks provides us with reasonable assurance that restaurant revenue is being properly accounted for and reported to Parks. Therefore, we consider Recommendations #3 and #4 to be implemented.

RECOMMENDATION

To address the issue from the previous audit that still exists, we recommend that SBR&C officials should maintain on file a contract for every preferred vendor that it does business with.

SBR&C Response: “We have implemented procedures to ensure that Preferred Vendor contracts are maintained properly. Also, these procedures will ensure that the Preferred Vendor income is accurately recorded and reported to the Parks Department each month.”

Parks Response: “Parks has discussed this matter with SBR’s principal and accountant, and we have been informed that SBR has instituted procedures to ensure that preferred vendor contracts are maintained properly. We will issue a notice to SBR reminding them of this obligation.”

DETAILED SCOPE AND METHODOLOGY

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

This follow-up audit reviewed SBR&C's recording of restaurant and preferred vendor revenue for the month of May 2011. To ensure whether or not the prior report's recommendations were implemented, we reviewed the prior SBR&C audit report issued by the Comptroller's Office, *Audit Report on the Compliance of South Beach Restaurant Corporation With Its License Agreement*, Audit No. FM09-091A, issued March 18, 2010. In addition, on June 14, 2011, we conducted an unannounced observation of the restaurant operation. During this observation, we made several purchases and observed whether these transactions were recorded in the POS system. Subsequently, we traced these transactions to the Sales Journal Report to ensure that our purchases were accurately recorded in the POS system.

To ensure that all guest checks were accounted for, we reviewed the Sales Journal and Manager Activity Reports. We determined whether all of the pre-numbered guest checks that were omitted from the Sales Journal Reports were listed on the Manager Activity Reports. Once all of the guest checks were accounted for, we then traced the total revenues calculated on the Sales Journal Reports to the General Ledger and then to the Monthly Report of Gross Receipts.

To determine whether the gross receipts reported to Parks were accurate, we interviewed SBR&C's Controller and then obtained and reviewed SBR&C's General Ledgers, Sales Journal Reports, and Manager Activity Reports for May 2011 as well as June 14 and 15, 2011. To determine whether all of the preferred vendor revenue was accurately reported to Parks, we also obtained and reviewed the Preferred Vendor Revenue Spreadsheets and the preferred vendor contracts. We made a note of all vendors that did not have a contract included in their files. We traced the payments from the preferred vendors to the General Ledger. We then traced the payments from the General Ledger to the Monthly Report of Gross Receipts.

September 15, 2011

The City of New York
Office of the Comptroller
1 Centre Street
New York, NY 10007
Attention: Tina Kim

Dear Ms Kim:

We are in receipt of the Draft Follow-Up Audit Report on the Compliance of SBR&C with Its License Agreement. With respect to the Audit Report findings, we have the following response:

Internal Control Weakness Over Restaurant Operations

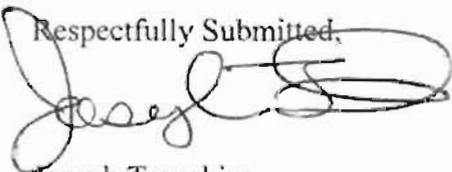
The Comptroller's office considers this recommendation to be fully implemented and, accordingly, we have no further comment.

Unreported Preferred Vendor Income

We have implemented procedures to ensure that Preferred Vendor contracts are maintained properly. Also, these procedures will ensure that the Preferred Vendor income is accurately recorded and reported to the Parks Department each month.

While the Comptroller's office did find that the Preferred Vendor revenue is being reported properly, they consider this recommendation to be partially implemented due to the fact that we only maintained 22 of the 24 contracts for the preferred vendors participating in the current year program. We will continue to refine our procedures so as to ensure that all Preferred Vendor contracts are maintained.

Respectfully Submitted,



Joseph Tranchina
Member



City of New York
Parks & Recreation

Adrian Benepe
Commissioner

The Arsenal
Central Park
New York, New York 10065

Elizabeth W. Smith
Assistant Commissioner
Revenue and Marketing

(212) 360-1366
betsy.smith@parks.nyc.gov

September 22, 2011

Ms. H. Tina Kim
Deputy Comptroller
The City of New York / Office of the Comptroller
1 Centre Street
New York, NY 10007

**Re: Comptroller's Draft Follow-up Audit Report on the Compliance of South Beach
Restaurant Corporation with Its License Agreement
Audit # FM11-135F Dated September 8, 2011**

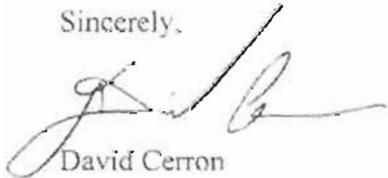
Deputy Comptroller Kim:

This letter addresses the findings and recommendations contained in the New York City Comptroller's ("Comptroller") Follow-Up Draft Audit Report ("the Follow-up Report") on the Compliance of the South Beach Restaurant Corporation ("SBR") with its License Agreement ("Agreement"). The Follow-up Report assessed SBR's implementation of the recommendations from a prior Comptroller audit report ("Prior Report") on SBR, issued on March 18, 2010. Parks is pleased that the Follow-up Report found that SBR has implemented or partially implemented the two recommendations in the Prior Report, and that the Follow-up Report found that the recommendations to Parks were implemented. In particular, the Follow-up Report found that SBR was able to ensure that all pre-numbered restaurant guest checks are accounted for. However, the Follow-up Report also found that two of 24 preferred vendor contracts for the month of May 2011 were not maintained on file. Consequently, the Follow-up Report recommended that SBR officials maintain on file a contract for every preferred vendor that it does businesses with.

Parks has discussed this matter with SBR's principal and accountant, and we have been informed that SBR has instituted procedures to ensure that preferred vendor contracts are maintained properly. We will issue a notice to SBR reminding them of this obligation.

Finally, we wish to thank the Comptroller's Office and its audit staff for its work in preparing this Follow-up Report.

Sincerely,



David Cerron

cc: Vincent Liquori, Lawrence Welgrin, George Davis, Robert Garafola, Elizabeth w. Smith

