



City of Hamilton

ELECTION COMPLIANCE AUDIT COMMITTEE REVISED

Meeting #: 23-003
Date: November 23, 2023
Time: 10:00 a.m.
Location: Room 264, 2nd Floor, City Hall (hybrid) (RM)
 71 Main Street West

Carrie McIntosh, Legislative Coordinator (905) 546-2424 ext. 2729

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*a. Sergio Manchia - Written Submission from Contributor

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7.3 CONSIDERATION OF APPLICATIONS

8. PRIVATE AND CONFIDENTIAL

8.1 May 11, 2023 - Private Deliberation Minutes

Pursuant to subsection 12.10(5) of the Election Compliance Audit Committee Procedures and subsections 88.33(5.1), 88.34(9.1), 88.35(4) and 88.36(6.1) of the *Municipal Elections Act, 1996, as amended*.

8.2 June 16, 2023 - Private Deliberation Minutes

Pursuant to subsection 12.10(5) of the Election Compliance Audit Committee Procedures and subsections 88.33(5.1), 88.34(9.1), 88.35(4) and 88.36(6.1) of the *Municipal Elections Act, 1996, as amended*.

8.3 June 20, 2023 - Private Deliberation Minutes

Pursuant to subsection 12.10(5) of the Election Compliance Audit Committee Procedures and subsections 88.33(5.1), 88.34(9.1), 88.35(4) and 88.36(6.1) of the *Municipal Elections Act, 1996, as amended*.

9. ADJOURNMENT



Hamilton

Election Compliance Audit Committee

MINUTES 23-002

Friday, June 16, 2023

10:00 a.m.

Room 192/193

Hamilton City Hall

71 Main Street West

Present: J. van der Heiden (Acting Chair), V. Saunders, Z. Spicer

**Absent with
Regrets:** C. DiFalco (Chair), L. Lister (Vice-Chair)

Also Present: S. Applebee, Solicitor (virtually)
A. Holland, City Clerk
A. Leadbetter, Manager Print, Mail and Elections

1. Appointment of Acting Chair

(Saunders/Spicer)

That J. van der Heiden be appointed as Acting Chair of the Election Compliance Audit Committee for the June 16, 2023 meeting.

CARRIED

FOR INFORMATION:

(a) APPROVAL OF AGENDA (Item 2)

(Saunders/Spicer)

That the Agenda for the June 16, 2023 Elections Audit Compliance Committee, be approved as presented.

CARRIED

(b) DECLARATIONS OF INTEREST (Item 3)

There were no declarations of interest.

(c) **ADOPTION OF MINUTES OF PREVIOUS MEETING (Item 4)**

(i) **May 11, 2023 (Item 4.1)**

(Saunders/Spicer)

That the minutes of the May 11, 2023 meeting of the Election Compliance Audit Committee be approved, as presented.

CARRIED

(d) **ITEMS FOR DISCUSSION (Item 7)**

(i) **CONSIDERATION OF CLERK'S REPORTS RESPECTING CONTRIBUTORS WHO APPEAR TO HAVE CONTRAVENED THE CONTRIBUTION LIMITS UNDER SECTION 88.9 (1) & (4) OF THE MUNICIPAL ELECTIONS ACT (Item 7.2)**

The Chair made the following opening statement:

This Election Compliance Audit Committee meeting has been convened pursuant to Section 88.34 (8) of the *Municipal Elections Act, 1996*, to consider the matter of the Clerk's Reports respecting Contributors who appear to have exceeded the maximum allowable contribution limits to any one candidate or two or more candidates in an election.

Notice was provided to all respective Contributors on May 26th by Registered Mail and to all respective Candidates on May 26th by Email.

The decisions of the Committee, will be in writing, and shall set out the reasons for the decision, and shall be signed by the members who concur in the decision. If warranted the members, in addition to the written decision, may deliver an oral decision at the meeting. Once the Committee has made their decision, the Clerk will forward the notice of the Committee's decision to the Contributors at the mailing addresses provided to the Clerk.

(1) Contributors who Appear to have Contravened the Contribution Limits under Section 88.9 of the *Municipal Elections Act* – Annie Seketa (FCS23066) (City Wide) (Item 7.2 (a))

The Chair invited the Contributor and Candidate to identify themselves and any agents attending on their behalf.

Neither the Contributor nor the Candidate were present at the meeting of the Committee, however, the Committee received a written submission from the Candidate on behalf of her mother, the Contributor. The written submission states that the Contributor's total contribution was \$1,200 rather than \$1,500 as reflected on the Candidate's Financial Statement and that the Candidate made a clerical error when completing the Financial Statement.

(Spicer/Saunders)

That the deliberations with respect to Contributors who Appear to have Contravened the Contribution Limits under Section 88.9 of the Municipal Elections Act – Annie Seketa (FCS23066) (City Wide), be deferred to a private session of the committee, which will be held after all matters on the Agenda have been heard, pursuant to subsection 12.10(5) of the Election Compliance Audit Committee Procedures subsections 88.33(5.1), 88.34(9.1), 88.35(4) and 88.36(6.1) of the *Municipal Elections Act, 1996, as amended*.

CARRIED**(2) Contributors who Appear to have Contravened the Contribution Limits under Section 88.9 of the *Municipal Elections Act* - Anthony Puddu (FCS23067) (City Wide) (Item 7.2(b))**

The Chair invited the Contributor and Candidate to identify themselves and any agents attending on their behalf.

Both the Candidate and the Contributor were present.

The Contributor advised the Committee that he provided unpaid labour to the campaign of his mother, the Candidate, and that he was not paid for the video services he provided to the Candidate.

The Candidate advised that funds were misallocated in her financial statement and apologized for the error.

The Committee also received a written submission and supporting documentation from the Candidate. The written submission from the Candidate states that the Candidate misallocated funds in her financial statement by attributing the payment for a purchase of marking materials from VistaPrint in the amount of \$319.71 to the Contributor when in fact the materials were paid for through the Candidate's account. The written submission also indicated that an in-kind contribution valued at \$1,000 for video work was also attributed to the Contributor. The submission confirmed that no payment was made to the Contributor for the in-kind contribution, that no invoices were generated, and that the Contributor's direct financial contribution to the Campaign was \$0.

(Spicer/Saunders)

That the deliberations with respect to Contributors who Appear to have Contravened the Contribution Limits under Section 88.9 of the Municipal Elections Act – Anthony Puddu (FCS23067) (City Wide), be deferred to a private session of the committee, which will be held after all matters on the Agenda have been heard, pursuant to subsection 12.10(5) of the Election Compliance Audit Committee Procedures

subsections 88.33(5.1), 88.34(9.1), 88.35(4) and 88.36(6.1) of the *Municipal Elections Act, 1996, as amended*.

CARRIED

(3) Contributors who Appear to have Contravened the Contribution Limits under Section 88.9 of the *Municipal Elections Act* – Cornell Performance Academy (FCS23068) (City Wide) (Item 7.2(c))

The Chair invited the Contributor and Candidate to identify themselves and any agents attending on their behalf.

The Candidate was present at the meeting and testified that she is a fifty percent co-owner of the Contributor's business. The Candidate provided written evidence in the form of invoices totaling \$1999.75: one from Premier Printing & Signs Ltd. in the amount of \$237 for signs; one from Premier Printing & Signs Ltd. in the amount of \$412.45 for signs and installation of outdoor/indoor signage; and one from Cornell Performance Academy in the amount of \$1,350. The receipts indicate that the Candidate's business paid for the expenses which should have been attributed to the Candidate and reflected as such on the Candidate's Financial Statement.

(Spicer/Saunders)

That the receipts provided by the candidate from Premier Printing & Signs Ltd. in the amount of \$237 for signs; from Premier Printing & Signs Ltd. in the amount of \$412.45 for signs and installation of outdoor/indoor signage; and from Cornell Performance Academy in the amount of \$1,350, be received as an evidence submission.

CARRIED

(Spicer/Saunders)

That the deliberations with respect to Contributors who Appear to have Contravened the Contribution Limits under Section 88.9 of the *Municipal Elections Act* – Cornell Performance Academy (FCS23068) (City Wide), be deferred to a private session of the committee, which will be held after all matters on the Agenda have been heard, pursuant to subsection 12.10(5) of the Election Compliance Audit Committee Procedures subsections 88.33(5.1), 88.34(9.1), 88.35(4) and 88.36(6.1) of the *Municipal Elections Act, 1996, as amended*.

CARRIED

(4) Contributors who Appear to have Contravened the Contribution Limits under Section 88.9 of the *Municipal Elections Act* – Darivoj Vranich (FCS23069) (City Wide) (Item 7.2(d))

The Chair invited the Contributor and Candidate to identify themselves and any agents attending on their behalf.

The Contributor was not present. One Candidate, Laura Farr, was present.

No written submission had been provided by the Contributor in advance of the meeting.

(Spicer/Saunders)

That the consideration with respect to Contributors who Appear to have Contravened the Contribution Limits under Section 88.9 of the Municipal Elections Act – Darivoj Vranich (FCS23069) (City Wide), be deferred until after the consideration of Item 7.2(i) on the Agenda, to provide the Contributor with further opportunity to attend the meeting.

CARRIED

When the Clerk's Report respecting Darivoj Vranich was again called by the Chair, following consideration of Item 7.2(i) on the Agenda, the Contributor was not present before the Committee.

The Candidate, who was present at the meeting, advised the Committee that it is best practice to notify Contributors to the Campaign of the contribution limits and was unaware of contributions to other Candidates.

(Spicer/Saunders)

That the deliberations with respect to Contributors who Appear to have Contravened the Contribution Limits under Section 88.9 of the Municipal Elections Act – Darivoj Vranich (FCS23069) (City Wide), be deferred to a private session of the committee, which will be held after all matters on the Agenda have been heard, pursuant to subsection 12.10(5) of the Election Compliance Audit Committee Procedures subsections 88.33(5.1), 88.34(9.1), 88.35(4) and 88.36(6.1) of the *Municipal Elections Act, 1996, as amended*.

CARRIED

(5) Contributors who Appear to have Contravened the Contribution Limits under Section 88.9 of the Municipal Elections Act – Paul Maxwell (FCS23070) (City Wide) (Item 7.2(e))

The Chair invited the Contributor and Candidate to identify themselves and any agents attending on their behalf.

The Candidate was present at the meeting. The Contributor was not present at the meeting.

The Candidate advised the Committee that the contribution in question was incorrectly listed as a contribution of goods and services on her Financial Statement. The Candidate provided a receipt in the amount

of \$1,500 from the Contributor's business – Two Foot Films - as evidence that the Candidate was billed for and paid for film services provided by the Contributor, which should have been reflected as a contribution of the Candidate on her Financial Statement.

(Spicer/Saunders)

That the receipt provided by the Candidate in the amount of \$1,500 from the Contributor's business – Two Foot Films – be received as an evidence submission.

CARRIED

(Spicer/Saunders)

That the deliberations with respect Contributors who Appear to have Contravened the Contribution Limits under Section 88.9 of the Municipal Elections Act – Paul Maxwell (FCS23070) (City Wide), be deferred to a private session of the committee, which will be held after all matters on the Agenda have been heard, pursuant to subsection 12.10(5) of the Election Compliance Audit Committee Procedures subsections 88.33(5.1), 88.34(9.1), 88.35(4) and 88.36(6.1) of the *Municipal Elections Act, 1996, as amended*.

CARRIED

(6) Contributors who Appear to have Contravened the Contribution Limits under Section 88.9 of the Municipal Elections Act – Sam Mercanti (FCS23071) (City Wide) (Item 7.2(f))

The Chair invited the Contributor and Candidate to identify themselves and any agents attending on their behalf.

The Contributor was present at the meeting of the Committee with his daughter who handles his accounting. One Candidate, Sonia Brown, was also present at the meeting of the Committee.

The Contributor advised the Committee that he was unaware of the maximum contribution limits as set forth in Section 88.9 (4) of the Act. The Contributor apologized and assured the Committee that the error would not be made again. The Contributor also advised the Committee that he believed that he personally made contributions totaling \$3,200 from a joint account held by himself and his wife Roma, and that his wife Roma made contributions which totaled \$2,500 from that joint account. During the Meeting the Committee requested, and the Contributor undertook to provide, documentation to support this position.

(Spicer/Saunders)

That the documentation provided by the Contributor respecting contributions made by the Contributor and his wife, be received as an evidence submission.

CARRIED

The Candidate advised the Committee that she did notify Contributors to the Campaign of the contribution limits and was unaware of contributions to other Candidates.

(Spicer/Saunders)

That the deliberations with respect Contributors who Appear to have Contravened the Contribution Limits under Section 88.9 of the Municipal Elections Act – Sam Mercanti (FCS23071) (City Wide) be deferred to a private session of the committee, which will be held after all matters on the Agenda have been heard, pursuant to subsection 12.10(5) of the Election Compliance Audit Committee Procedures subsections 88.33(5.1), 88.34(9.1), 88.35(4) and 88.36(6.1) of the *Municipal Elections Act, 1996, as amended*.

CARRIED

(7) Contributors who Appear to have Contravened the Contribution Limits under Section 88.9 of the Municipal Elections Act – Sergio Manchia (FCS23072) (City Wide) (Item 7.2(g))

The Chair invited the Contributor and Candidate to identify themselves and any agents attending on their behalf.

The Contributor's Agent (the "Agent"), Patrick Mc Ilhone, Gowling WLG, was present to represent the Contributor at the meeting of the Committee. The Contributor was unable to attend in person. One Candidate, Laura Farr was also present at the meeting of the Committee.

The Agent advised the Committee that the Contributor inadvertently believed that the maximum contribution limit was \$5,500 rather than \$5,000 to two or more candidates for office on the same council and assured the Committee that the Contributor would note the correct limit in the future. The Agent requested that, given the minor nature of the overcontribution, no further action be taken against the Contributor and suggested that the overcontribution does not rise to a level that warrants punishment. When asked by the Committee whether this was the first alleged overcontribution made by the Contributor, the Agent confirmed that the Contributor was the subject of a Clerk's Report arising from contributions made during the 2018 municipal election and that the Contributor was brought before the committee for an overcontribution. In that case, the Committee accepted the Contributor's apology for the \$350 over contribution and chose not to commence legal proceedings.

The Candidate advised the Committee that it is best practice to notify Contributors of the contribution limits, but could not say with certainty

that she advised this Contributor of those limits. The Candidate also advised the Committee that she was unaware of contributions made by the Contributor to other Candidates.

(Spicer/Saunders)

That the deliberations with respect Contributors who Appear to have Contravened the Contribution Limits under Section 88.9 of the Municipal Elections Act – Sergio Manchia (FCS23072) (City Wide) be deferred to a private session of the committee, which will be held after all matters on the Agenda have been heard, pursuant to subsection 12.10(5) of the Election Compliance Audit Committee Procedures subsections 88.33(5.1), 88.34(9.1), 88.35(4) and 88.36(6.1) of the *Municipal Elections Act, 1996, as amended*.

CARRIED

(8) Contributors who Appear to have Contravened the Contribution Limits under Section 88.9 of the Municipal Elections Act – Silvio Guglietti (FCS23073) (City Wide) (Item 7.2(h))

The Chair invited the Contributor and Candidate to identify themselves and any agents attending on their behalf.

The Contributor's Agent (the "Agent"), Jeffrey Manishen, Ross & McBride, was present to represent the Contributor at the meeting of the Committee. The Contributor was not present in person, nor were any of the Candidates.

The Committee received a written submission from the Agent on behalf of the Contributor. The Committee also received a written statement prepared by Patrizia Guglietti, the Contributor's wife.

(Saunders/Spicer)

That the written submission provided by the Agent on behalf of the Contributor, Silvio Guglietti and the written statement prepared by the Contributor's wife, Patrizia Guglietti, be received as evidence submissions.

CARRIED

The Agent advised the Committee that Patrizia Guglietti made a single contribution to the campaign of Andrea Horwath in the amount of \$1,200, as confirmed by her statement and provision of the image of the cheque which shows Patrizia's unique signature. This contribution was mistakenly reflected as a contribution by the Contributor in the Financial Statement of Andrea Horwath. The Agent further advised that the Contributor made contributions to the Campaigns of various candidates, as evidenced by copies of his cheques with his unique signature, which totaled \$4,000. As such, the Contributor did not exceed the maximum contribution limits under the Act.

(Spicer/Saunders)

That the deliberations with respect Contributors who Appear to have Contravened the Contribution Limits under Section 88.9 of the Municipal Elections Act – Silvio Guglietti (FCS23073) (City Wide), be deferred to a private session of the committee, which will be held after all matters on the Agenda have been heard, pursuant to subsection 12.10(5) of the Election Compliance Audit Committee Procedures subsections 88.33(5.1), 88.34(9.1), 88.35(4) and 88.36(6.1) of the *Municipal Elections Act, 1996, as amended*.

CARRIED

(9) Contributors who Appear to have Contravened the Contribution Limits under Section 88.9 of the Municipal Elections Act – Scott Vallance (FCS23077) (City Wide) (Item 7.2(i))

The Chair invited the Contributor and Candidate to identify themselves and any agents attending on their behalf.

The Contributor was present at the meeting of the Committee. The Candidate was not present at the meeting.

The Contributor advised the Committee that he developed a website for the Candidate's campaign at an estimated cost of approximately \$200. The Contributor further testified that he did not issue an invoice or receive a receipt from the Candidate.

(Spicer/Saunders)

That the deliberations with respect Contributors who Appear to have Contravened the Contribution Limits under Section 88.9 of the Municipal Elections Act – Scott Vallance (FCS23077) (City Wide), be deferred to a private session of the committee, which will be held after all matters on the Agenda have been heard, pursuant to subsection 12.10(5) of the Election Compliance Audit Committee Procedures subsections 88.33(5.1), 88.34(9.1), 88.35(4) and 88.36(6.1) of the *Municipal Elections Act, 1996, as amended*.

CARRIED

(e) PRIVATE AND CONFIDENTIAL (Item 8)

(i) May 11, 2023 - Private Deliberation Minutes (Item 8.1)

(Spicer/Saunders)

That the May 11, 2023 – Private Deliberation Minutes, be deferred to a future meeting of the Committee.

CARRIED

(ii) Deliberations in Private Session

(Spicer/Saunders)

That the Committee deliberate in private pursuant to subsection 12.10(5) of the Election Compliance Audit Committee Procedures subsections 88.33(5.1), 88.34(9.1), 88.35(4) and 88.36(6.1) of the *Municipal Elections Act, 1996, as amended*.

CARRIED

(f) ADJOURNMENT (Item 9)

(Spicer/Saunders)

That the meeting of the Election Compliance Audit Committee be adjourned at 10:54 a.m.

CARRIED


Respectfully submitted,

J. van der Heiden, Acting Chair
Election Compliance Audit
Committee

Carrie McIntosh
Legislative Coordinator
Office of the City Clerk



CITY OF HAMILTON
CORPORATE SERVICES DEPARTMENT
Office of the City Clerk

TO:	Chair and Members of the Election Compliance Audit Committee
COMMITTEE DATE:	November 23, 2023
SUBJECT/REPORT NO:	Contributors who Appear to have Contravened the Contribution Limits under Section 88.9 of the <i>Municipal Elections Act</i> –Darivoj Vranich (FCS23069(a)) (City Wide) **Updated to reflect filing of Supplementary financial statements
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Tammy Reeves, Elections Coordinator, (905) 546-2424 Ext. 3017 Aine Leadbetter, Manager Elections, Print and Mail (905) 546-2424 Ext. 2753
SUBMITTED BY:	Janet Pilon Acting City Clerk Office of the City Clerk
SIGNATURE:	

As per Section 88.34 (1) of the *Municipal Elections Act, 1996* (the 'Act') the Clerk has reviewed the contributions reported on the financial statements submitted by a candidate under section 88.25 to determine whether any contributors appear to have exceeded any of the contribution limits under section 88.9.

As per Section 88.34 (2) of the Act, the Clerk is required to prepare a report identifying each contributor to a candidate for office on a council who appears to have contravened any of the contribution limits under Section 88.9, Maximum contributions to candidates:

- a contributor shall not make contributions exceeding a total of \$1,200 to any one candidate in an election (Section 88.9 (1))
- and a contributor shall not make contributions exceeding a total of \$5,000 to two or more candidates for office on the same council or local board (Section 88.9 (4))

OUR Vision: To be the best place to raise a child and age successfully.

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OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

SUBJECT: Contributors who Appear to have Contravened the Contribution Limits under Section 88.9 of the *Municipal Elections Act* – Darivoj Vranich (FCS23069(a)) (City Wide) - Page 2 of 3

As per Section 88.15 (1) for the purposes of the Act, money, goods and services given to and accepted by a person for his or her election campaign, or given to and accepted by another person who is acting under the direction of the candidate, are contributions.

The Clerk's review of contributions reported on the financial statements submitted by candidates following the initial filing date determined that Darivoj Vranich (the "Contributor") appeared to have contravened the maximum contribution to two or more candidates for office on the same council, as per Section 88.9 (4) of the Act. Report FCS23069, Contributors who Appear to have Contravened the Contribution Limits under Section 88.9 of the *Municipal Elections Act* –Darivoj Vranich dated June 16, 2023, is attached as Appendix "A" to this Report.

Following the meeting of the Election Compliance Audit Committee held on June 16, 2023, the Committee issued its decision respecting Report FCS23069 on June 23, 2023. The Committee found that the commencement of legal proceedings was warranted and that it was in the public interest to commence legal proceedings against the Contributor who has exceeded the contribution limits in the Act by a significant margin and without reasonable explanation. The prosecution of this matter was referred to a prosecutor in accordance with the Committee's decision. The Decision of the Election Compliance Audit Committee Decision respecting Darivoj Vranich dated June 23, 2023 is attached as Appendix "B" to this Report. On October 31, 2023, a charge of "making contributions exceeding a total of \$5,000 to any two or more candidates for office on the Council of the City of Hamilton with respect to the 2022 municipal elections contrary to subsection 88.9(4) of the *Municipal Elections Act*," was laid against Darivoj Vranich.

As a result of the Clerk's review of contributions reported on the financial statements submitted by candidates following the supplementary filing date, the Clerk has identified an increase in the total amount of contributions made by the Contributor as initially reported in FCS23069 and which has already been the subject of a decision by the Committee to commence legal proceedings. The additional contribution made by the Contributor during the Supplementary Reporting Period is as reflected below:

CONTRIBUTOR'S LAST NAME	CONTRIBUTOR'S FIRST NAME	AMOUNT RECEIVED DURING SUPPLEMENTARY REPORTING PERIOD	CANDIDATES NAME
Vranich	Darivoj	\$1,200.00	Andrea Horwath
TOTAL CONTRIBUTIONS		\$10,800.00 **	

****The Total Contributions reflected above includes contributions reported in FCS23069 and FCS23069(a).**

SUBJECT: Contributors who Appear to have Contravened the Contribution Limits under Section 88.9 of the *Municipal Elections Act* – Darivoj Vranich (FCS23069(a)) (City Wide) - Page 3 of 3

The Clerk, as per Section 88.34 (4) of the Act, shall forward each report prepared under Section 88.34 (2) to the compliance audit committee.

As per Section 88.34 (8) of the Act, within 30 days after receiving the report prepared by the Clerk under subsection (4), the compliance audit committee shall consider it and decide whether to commence a legal proceeding against a contributor for an apparent contravention.

Reasonable notice of the meetings of the compliance audit committee shall be given to the contributor, the applicable candidate(s) and the public (Section 88.34 (9)).

The compliance audit committee's decision with respect to the report and brief written reason(s) for the decision shall be given to the contributor and to the Clerk (Section 88.34 (11)).


APPENDICES AND SCHEDULES ATTACHED

Appendix "A" to Report FCS23069(a)– Contributors who Appear to have Contravened the Contribution Limits under Section 88.9 of the *Municipal Elections Act* –Darivoj Vranich (FCS23069) (City Wide)

Appendix "B" to Report FCS23069(a)– Decision of the Election Compliance Audit Committee Decision respecting Darivoj Vranich



CITY OF HAMILTON
CORPORATE SERVICES DEPARTMENT
Office of the City Clerk

TO:	Chair and Members of the Election Compliance Audit Committee
COMMITTEE DATE:	June 16, 2023
SUBJECT/REPORT NO:	Contributors who Appear to have Contravened the Contribution Limits under Section 88.9 of the <i>Municipal Elections Act</i> –Darivoj Vranich (FCS23069) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Tammy Reeves, Elections Coordinator, (905) 546-2424 Ext. 3017 Aine Leadbetter, Manager Elections, Print and Mail (905) 546-2424 Ext. 2753
SUBMITTED BY:	Andrea Holland City Clerk Office of the City Clerk
SIGNATURE:	

As per Section 88.34 (1) of the *Municipal Elections Act, 1996* (the 'Act') the Clerk has reviewed the contributions reported on the financial statements submitted by a candidate under section 88.25 to determine whether any contributors appear to have exceeded any of the contribution limits under section 88.9.

As per Section 88.34 (2) of the Act, the Clerk is required to prepare a report identifying each contributor to a candidate for office on a council who appears to have contravened any of the contribution limits under Section 88.9, Maximum contributions to candidates:

- a contributor shall not make contributions exceeding a total of \$1,200 to any one candidate in an election (Section 88.9 (1))
- and a contributor shall not make contributions exceeding a total of \$5,000 to two or more candidates for office on the same council or local board (Section 88.9 (4))

As per Section 88.15 (1) for the purposes of the Act, money, goods and services given to and accepted by a person for his or her election campaign, or given to and accepted by another person who is acting under the direction of the candidate, are contributions.

OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

SUBJECT: Contributors who Appear to have Contravened the Contribution Limits under Section 88.9 of the *Municipal Elections Act* – Darivoj Vranich (FCS23069) (City Wide) - Page 2 of 2

As per the Clerk's review, the following contributor appears to have contravened the maximum contribution to two or more candidates for office on the same council, as per Section 88.9 (4) of the Act:

CONTRIBUTOR'S LAST NAME	CONTRIBUTOR'S FIRST NAME	AMOUNT RECEIVED	CANDIDATES NAME
Vranich	Darivoj	\$1,200.00	Laura Farr
Vranich	Darivoj	\$1,200.00	Maria Pearson
Vranich	Darivoj	\$1,200.00	Matt Francis
Vranich	Darivoj	\$1,200.00	Nicholas Lauwers
Vranich	Darivoj	\$1,200.00	Peter Lanza
Vranich	Darivoj	\$1,200.00	Tom Jackson
Vranich	Darivoj	\$1,200.00	Walter Furlan
Vranich	Darivoj	\$1,200.00	Keanin Loomis
TOTAL CONTRIBUTIONS:		\$9600.00	

The Clerk, as per Section 88.34 (4) of the Act, shall forward each report prepared under Section 88.34 (2) to the compliance audit committee.

As per Section 88.34 (8) of the Act, within 30 days after receiving the report prepared by the Clerk under subsection (4), the compliance audit committee shall consider it and decide whether to commence a legal proceeding against a contributor for an apparent contravention.

Reasonable notice of the meetings of the compliance audit committee shall be given to the contributor, the applicable candidate(s) and the public (Section 88.34 (9)).

The compliance audit committee's decision with respect to the report and brief written reason(s) for the decision shall be given to the contributor and to the Clerk (Section 88.34 (11)).

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CITY OF HAMILTON

**DECISION of the
ELECTION COMPLIANCE AUDIT COMMITTEE**
established under Section 88.37(1) of the *Municipal Elections Act, 1996* (the "Act")
**A CLERK'S REPORT RESPECTING A CONTRIBUTOR WHO APPEARS
TO HAVE EXCEEDED ANY OF THE CONTRIBUTION LIMITS UNDER
SECTION 88.9 OF THE ACT**
DARIVOJ VRANICH

With respect to the meeting of the Election Compliance Audit Committee (the "Committee") held on June 16, 2023, to consider the Clerk's Report (FCS23069) concerning the contributions made by Darivoj Vranich (the "Contributor") to the 2022 Election Campaign (the "Campaigns") of various candidates (the "Candidates"):

The Clerk's Report indicates the Contributor's total contribution of funds as \$9,600 to the Campaigns of various Candidates, exceeding the maximum contribution to two or more candidates for office on the same council, as per Section 88.9 (4) of the Act.

When the matter of the Clerk's Report respecting Darivoj Vranich was originally considered at the Meeting, it was determined that the Contributor was not present before the Committee and that one Candidate, Laura Farr, was present. It was also confirmed that no written submissions had been provided by the Contributor in advance of the Meeting. To allow the Contributor a further opportunity to attend the Meeting, the Committee deferred consideration of the Clerk's Report respecting Darivoj Vranich to the end of the Meeting agenda. When the Clerk's Report respecting Darivoj Vranich was again called by the Chair, the Contributor was still not present before the Committee.

The Candidate advised the Committee that it is best practice to notify Contributors to the Campaign of the contribution limits and was unaware of contributions to other Candidates.

During the initial private deliberations of the Committee, held on June 16, 2023 the Committee requested confirmation of whether the Meeting Notice had been provided to the Contributor. The Committee was subsequently advised by the Committee Clerk that

on May 30, 2023 the package addressed to the Contributor was sent by registered mail and that on May 31, 2023 a Notice Card was left by Canada Post at the address provided for the Contributor advising where and when the Contributor could pick up the item, however that the item went unclaimed by the Contributor. The Committee was also advised that the Committee Agenda, including the Clerk's Report (FCS23069) respecting the Contributor was posted on the City's website on June 6, 2023.

On June 19, 2023, subsequent to its initial deliberations respecting the Contributor, but before its decision had been rendered, the Committee was advised that the Contributor had learned of the Clerk's Report respecting the Contributor and had asked for the opportunity to make representations. Later that day the Clerk's office received a short email statement from the Contributor, which was provided to the Committee.

On June 20, 2023 the Committee resumed its private deliberations respecting the Clerk's Report (FCS23069).

As permitted pursuant to the procedures for the Committee, the Committee decided to receive the email statement made by the Contributor on June 19, 2023 and, to ensure the matter at issue was determined in a just manner, the Committee decided to consider the email statement of the Contributor in the course of their deliberations, finding that doing so would not create procedural unfairness towards any of the involved parties. The Committee further decided to waive the requirement in the procedures for the Committee to afford the parties an opportunity to respond to the email statement.

In the email statement of the Contributor, the Contributor admitted to making over contributions and apologized for the error, stressing that the error was unintentional and was due to his lack of knowledge of the cumulative contribution limit respecting multiple donations.

The Committee is satisfied that there are reasonable grounds to believe that Contributor made contributions in excess of the limits set out in Section 88.9 (4) of the Act given that the total amount of contributions made to two or more candidates for office on the same Council totaled \$9,600, exceeding the maximum limit by \$4,600. The Committee does not accept as a reasonable explanation the Contributor's lack of knowledge regarding the contribution limits relating to contributions to two or more candidates, which are not new to the Act and which have existed in the Act since 2010.

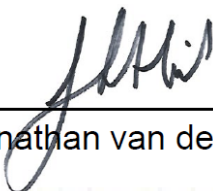
The Committee finds that the commencement of legal proceedings is warranted and that it is in the public interest to commence legal proceedings against the Contributor who has exceeded the contribution limits in the Act by a significant margin and without reasonable explanation. As such, the Committee will be commencing legal proceedings against the Contributor and a prosecutor will be appointed for that purpose.

Election Compliance Audit Committee
Decision respecting Darivoj Vranich (Contributor)
Page 2

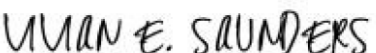
The Committee also wishes to remind all Candidates of their obligations pursuant to Section 88.22 (1) of the Act – Duties of Candidates, particularly with respect to overcontributions.

Dated at the City of Hamilton June 23, 2023.

Written and approved by the following Committee Members:



Jonathan van der Heiden




Vivian Sanders



Zachary Spicer



CITY OF HAMILTON
CORPORATE SERVICES DEPARTMENT
 Office of the City Clerk

TO:	Chair and Members of the Election Compliance Audit Committee
COMMITTEE DATE:	November 23, 2023
SUBJECT/REPORT NO:	Contributors who Appear to have Contravened the Contribution Limits under Section 88.9 of the <i>Municipal Elections Act</i> – Sergio Manchia (FCS23072(a))(City Wide) **Updated to reflect filing of Supplementary financial statements.
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Tammy Reeves, Elections Coordinator, (905) 546-2424 Ext. 3017 Aine Leadbetter, Manager Elections, Print and Mail (905) 546-2424 Ext. 2753
SUBMITTED BY:	Janet Pilon Acting City Clerk Office of the City Clerk
SIGNATURE:	

As per Section 88.34 (1) of the *Municipal Elections Act, 1996* (the 'Act') the Clerk has reviewed the contributions reported on the financial statements submitted by a candidate under section 88.25 to determine whether any contributors appear to have exceeded any of the contribution limits under section 88.9.

As per Section 88.34 (2) of the Act, the Clerk is required to prepare a report identifying each contributor to a candidate for office on a council who appears to have contravened any of the contribution limits under Section 88.9, Maximum contributions to candidates:

- a contributor shall not make contributions exceeding a total of \$1,200 to any one candidate in an election (Section 88.9 (1))
- and a contributor shall not make contributions exceeding a total of \$5,000 to two or more candidates for office on the same council or local board (Section 88.9 (4))

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SUBJECT: Contributors who Appear to have Contravened the Contribution Limits under Section 88.9 of the *Municipal Elections Act* – Sergio Manchia (FCS23072(a)) (City Wide) - Page 2 of 3

As per Section 88.15 (1) for the purposes of the Act, money, goods and services given to and accepted by a person for his or her election campaign, or given to and accepted by another person who is acting under the direction of the candidate, are contributions.

The Clerk's review of contributions reported on the financial statements submitted by candidates following the initial filing date determined that Sergio Manchia (the "Contributor") appeared to have contravened the maximum contribution to two or more candidates for office on the same council, as per Section 88.9(4) of the Act. Report FCS23072, Contributors who Appear to have Contravened the Contribution Limits under Section 88.9 of the *Municipal Elections Act* –Sergio Manchia dated June 16, 2023, is attached as Appendix "A" to this Report.

Following the meeting of the Election Compliance Audit Committee held on June 16, 2023, the Committee issued its decision respecting Report FCS23072 on June 23, 2023. The Committee found that the commencement of legal proceedings was warranted and that it was in the public interest to commence legal proceedings against the Contributor who had exceeded the contribution limits without reasonable explanation. The prosecution of this matter has been referred to a prosecutor in accordance with the Committee's decision. The Decision of the Election Compliance Audit Committee Decision respecting Sergio Manchia dated June 23, 2023 is attached as Appendix "B" to this Report. On October 31, 2023 a charge of "making contributions exceeding a total of \$5,000 to any two or more candidates for office on the Council of the City of Hamilton with respect to the 2022 municipal elections contrary to subsection 88.9(4) of the *Municipal Elections Act*," was laid against Sergio Manchia.

As a result of the Clerk's review of contributions reported on the financial statements submitted by candidates following the supplementary filing date, the Clerk has identified an increase in the total amount of contributions made by the Contributor as initially reported in Report FCS23072 and which has already been the subject of a decision by the Committee to commence legal proceedings. The additional contribution made by the Contributor during the Supplementary Reporting Period is as reflected below:

CONTRIBUTOR'S LAST NAME	CONTRIBUTOR'S FIRST NAME	AMOUNT RECEIVED DURING SUPPLEMENTARY REPORTING PERIOD	CANDIDATES NAME
Manchia	Sergio	\$450.00	Andrea Horwath
TOTAL CONTRIBUTIONS		\$5750.00**	

****The Total Contributions reflected above includes contributions of the Contributor reported in FCS23072 and FCS23072(a).**

SUBJECT: Contributors who Appear to have Contravened the Contribution Limits under Section 88.9 of the *Municipal Elections Act* – Sergio Manchia (FCS23072(a)) (City Wide) - Page 3 of 3

The Clerk as per Section 88.34 (4) of the Act shall forward each report prepared under Section 88.34 (2) to the compliance audit committee.

As per Section 88.34 (8) Within 30 days after receiving the report prepared by the Clerk under subsection (4), the compliance audit committee shall consider it and decide whether to commence a legal proceeding against a contributor for an apparent contravention.

Reasonable notice of the meetings of the compliance audit committee shall be given to the contributor, the applicable candidate(s) and the public (Section 88.34 (9)).

The compliance audit committee's decision with respect to Section 88.34 (8) and a brief written reason(s) for the decision shall be given to the contributor and to the Clerk (Section 88.34 (11)).

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" to Report FCS23072(a)– Contributors who Appear to have Contravened the Contribution Limits under Section 88.9 of the *Municipal Elections Act* –Sergio Manchia (FCS23072) (City Wide)

Appendix "B" to Report FCS23072(a)– Decision of the Election Compliance Audit Committee Decision respecting Sergio Manchia



CITY OF HAMILTON

**DECISION of the
ELECTION COMPLIANCE AUDIT COMMITTEE**
established under Section 88.37(1) of the *Municipal Elections Act, 1996* (the "Act")
**A CLERK'S REPORT RESPECTING A CONTRIBUTOR WHO APPEARS
TO HAVE EXCEEDED ANY OF THE CONTRIBUTION LIMITS UNDER
SECTION 88.9 OF THE ACT**
SERGIO MANCHIA

With respect to the meeting of the Election Compliance Audit Committee (the "Committee") held on June 16, 2023, to consider the Clerk's Report (FCS23072) concerning the contributions made by Sergio Manchia (the "Contributor") to the 2022 Election Campaign (the "Campaigns") of various candidates (the "Candidates"):

The Clerk's Report indicates the Contributor's total contribution of funds as \$5,300 to the Campaigns of various Candidates, exceeding the maximum contribution to two or more candidates for office on the same council, as per Section 88.9 (4) of the Act.

The Contributor's Agent (the "Agent"), Patrick Mc Ilhone, Gowling WLG, was present to represent the Contributor at the meeting of the Committee. One Candidate, Laura Farr was also present at the meeting of the Committee.

The Agent advised the Committee that the Contributor inadvertently believed that the maximum contribution limit was \$5,500 rather than \$5,000 to two or more candidates for office on the same council and assured the Committee that the Contributor would note the correct limit in the future. The Agent requested that, given the minor nature of the overcontribution, no further action be taken against the Contributor and suggested that the overcontribution does not rise to a level that warrants punishment. When asked by the Committee whether this was the first alleged overcontribution made by the Contributor, the Agent confirmed that the Contributor was the subject of a Clerk's Report arising from contributions made during the 2018 municipal election and that the Contributor was brought before the committee for an overcontribution. In that case, the Committee accepted the Contributor's apology for the \$350 over contribution and chose not to commence legal proceedings.

The Candidate advised the Committee that it is best practice to notify Contributors of the contribution limits, but could not say with certainty that she advised this Contributor of those limits. The Candidate also advised the Committee that she was unaware of contributions made by the Contributor to other Candidates.

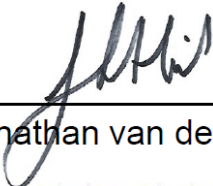
The Committee is satisfied that there are reasonable grounds to believe that the Contributor made contributions in excess of the limits set out in Section 88.9(4) of the Act given that the total amount of contributions made to two or more Candidate for office on the same Council totaled \$5,300, exceeding the maximum limit by \$300.

The Committee is satisfied that the Contributor is sophisticated, with past experience relating to contribution limits as set forth in the Act given that he was the subject of a Clerk's Report during the last election cycle. The Committee finds that the commencement of legal proceedings is warranted and that it is in the public interest to commence legal proceedings against the Contributor who has exceeded the contribution limits without reasonable explanation. As such, the Committee will be commencing legal proceedings against the Contributor and a prosecutor will be appointed for that purpose.


The Committee also wishes to remind all Candidates of their obligations pursuant to Section 88.22 (1) of the Act – Duties of Candidates, particularly with respect to overcontributions.

Dated at the City of Hamilton June 23, 2023.

Written and approved by the following Committee Members:



Jonathan van der Heiden




Vivian Sanders



Zachary Spicer



CITY OF HAMILTON
CORPORATE SERVICES DEPARTMENT
Office of the City Clerk

TO:	Chair and Members of the Election Compliance Audit Committee
COMMITTEE DATE:	June 16, 2023
SUBJECT/REPORT NO:	Contributors who Appear to have Contravened the Contribution Limits under Section 88.9 of the <i>Municipal Elections Act</i> – Sergio Manchia (FCS23072) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Tammy Reeves, Elections Coordinator, (905) 546-2424 Ext. 3017 Aine Leadbetter, Manager Elections, Print and Mail (905) 546-2424 Ext. 2753
SUBMITTED BY:	Andrea Holland City Clerk Office of the City Clerk
SIGNATURE:	

As per Section 88.34 (1) of the *Municipal Elections Act, 1996* (the 'Act') the Clerk has reviewed the contributions reported on the financial statements submitted by a candidate under section 88.25 to determine whether any contributors appear to have exceeded any of the contribution limits under section 88.9.

As per Section 88.34 (2) of the Act, the Clerk is required to prepare a report identifying each contributor to a candidate for office on a council who appears to have contravened any of the contribution limits under Section 88.9, Maximum contributions to candidates:

- a contributor shall not make contributions exceeding a total of \$1,200 to any one candidate in an election (Section 88.9 (1))
- and a contributor shall not make contributions exceeding a total of \$5,000 to two or more candidates for office on the same council or local board (Section 88.9 (4))

As per Section 88.15 (1) for the purposes of the Act, money, goods and services given to and accepted by a person for his or her election campaign, or given to and accepted by another person who is acting under the direction of the candidate, are contributions.

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SUBJECT: Contributors who Appear to have Contravened the Contribution Limits under Section 88.9 of the *Municipal Elections Act* – Sergio Manchia (FCS23072) (City Wide) - Page 2 of 2

As per the Clerk's review, the following contributor appears to have contravened the maximum contribution to two or more candidates for office on the same council or local board., as per Section 88.9 (4) of the Act:

CONTRIBUTOR'S LAST NAME	CONTRIBUTOR'S FIRST NAME	AMOUNT RECEIVED	CANDIDATES NAME
Manchia	Sergio	\$250.00	Peter Lanza
Manchia	Sergio	\$750.00	Andrea Horwath
Manchia	Sergio	\$250.00	Alex Johnstone
Manchia	Sergio	\$500.00	John-Paul Danko
Manchia	Sergio	\$500.00	Laura Farr
Manchia	Sergio	\$500.00	Maria Pearson
Manchia	Sergio	\$500.00	Matt Francis
Manchia	Sergio	\$250.00	Nicholas Lauwers
Manchia	Sergio	\$250.00	Tom Jackson
Manchia	Sergio	\$500.00	Esther Pauls
Manchia	Sergio	\$300.00	Michael Spadafora
Manchia	Sergio	\$500.00	Megg Marketos
Manchia	Sergio	\$250.00	Keanin Loomis
TOTAL CONTRIBUTIONS:		\$5300.00	

The Clerk as per Section 88.34 (4) of the Act shall forward each report prepared under Section 88.34 (2) to the compliance audit committee.

As per Section 88.34 (8) Within 30 days after receiving the report prepared by the Clerk under subsection (4), the compliance audit committee shall consider it and decide whether to commence a legal proceeding against a contributor for an apparent contravention.

Reasonable notice of the meetings of the compliance audit committee shall be given to the contributor, the applicable candidate(s) and the public (Section 88.34 (9)).

The compliance audit committee's decision with respect to Section 88.34 (8) and a brief written reason(s) for the decision shall be given to the contributor and to the Clerk (Section 88.34 (11)).

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**Written Statement to
Hamilton Election Compliance Audit Committee**

From: Sergio Manchia

RE: Committee Meeting November 23, 2023 – Sergio Manchia (FCS23072(a))

Dear Committee,

I am unable to attend at the November 23, 2023 committee meeting, as I am out of the country for a previously scheduled commitment. Please accept my regrets.

I do, however, wish to address the statement in report FCS23072(a), submitted by the Clerk, alleging that I had made an “additional contribution” of \$450.00 during the “Supplementary Reporting Period”, which increased my overall alleged contributions towards candidates for the 2022 election from \$5,300.00 to \$5,750.00.

The facts surrounding the \$450.00 payment are as follows:

1. The payment was made in response to an invitation to a welcome dinner for the new Mayor. The payment was made on May 2, 2023, over 6 months after the end of the election.
2. My general understanding has always been that the campaign period for a candidates ends at the end of the calendar year for the election – and my legal counsel has now confirmed to me that this is generally the case under section 88.23(1)2. of the Municipal Election Act.
3. I have only very recently been advised, after receiving a copy of report FCS23072(a) on November 8, 2023, that Mayor Andrea Horwath filed a “Notice of Extension of Campaign Period – Form 6” to extend her campaign period to June 30, 2023, in accordance with paragraph 4 of subsection 88.24(1) of the Municipal Election Act.
4. I was never informed of this campaign period extension by any person involved in the event or collection of my payment. The fact that my payment could be considered a contribution towards the 2022 election limit is a genuine surprise to me. I was under the impression that it would not count towards the 2022 election cycle, and had no reason to believe otherwise.

For the reasons set out above, including my lack of knowledge of the circumstances relating to my 2023 payment, I do not believe that it would be fair or reasonable include the \$450.00 payment in the consideration of my total 2022 campaign contributions.

Sincerely,



Sergio Manchia