

To: Joint Compliance Audit Committee

From: Mary Medeiros, Director, Legislative Services/City Clerk,
Office of the C.A.O.

Report Number: JCAC-23-01

Date of Report: May 17, 2023

Date of Meeting: May 24, 2023

Subject: Apparent contravention by D. Jamieson of the contribution
limits to candidates for the 2022 Municipal Election in the City
of Oshawa

Ward: All Wards

File: 02-12

1.0 Purpose

To provide the Joint Compliance Audit Committee (the Committee) with a report on an apparent contravention of the contribution limits in Section 88.9 of the *Municipal Elections Act, 1996*, S.O. 1996, c.32 (the Act) by D. Jamieson of 404 Maplewood Drive, Oshawa.

Attachment 1 is the Financial Statement – Auditor’s Report Candidate – Form 4 submitted by Joe Ingino.

2.0 Recommendation

That the Joint Compliance Audit Committee consider this report and decide whether to commence a legal proceeding against the contributor noted in the report for an apparent contravention.

3.0 Executive Summary

None

4.0 Input From Other Sources

- *Municipal Elections Act, 1996*, S.O. 1996, c.32
- Financial Statement – Auditor’s Report Candidate – Form 4 – Joe Ingino

5.0 Analysis

5.1 Requirements Under the Municipal Elections Act

Subsection 88.9(1) of the Act provides that a contributor shall not make contributions exceeding \$1,200.00 to any one candidate in an election. Subsection 88.9(4) of the Act provides that a contributor shall not make contributions exceeding \$5,000.00 to two or more candidates for office on the same council.

Subsections 88.34(1), (2), (3) and (4) set out the requirements for the City Clerk in respect to reviewing and reporting on contributions to candidates which appear to have exceeded the contribution limits set out in section 88.9 of the Act:

Review of contributions to candidates

88.34 (1) The clerk shall review the contributions reported on the financial statements submitted by a candidate under section 88.25 to determine whether any contributor appears to have exceeded any of the contribution limits under section 88.9. 2016, c. 15, s. 64.

Report, contributions to candidates for council

(2) As soon as possible following the day that is 30 days after the filing date or supplementary filing date, as the case may be, under section 88.30, the clerk shall 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 and,

- (a) If the contributor's total contributions to a candidate for office on a council appear to exceed the limit under section 88.9, the report shall set out the contributions made by the contributor to the candidate; and
- (b) If the contributor's total contributions to two or more candidates for office on the same council appear to exceed the limit under section 88.9, the report shall set out the contributions made by that contributor to all candidates for office on the same council. 2016, c. 15, s. 64.

Same

(3) The clerk shall prepare a separate report under subsection (2) in respect of each contributor who appears to have contravened any of the contribution limits under section 88.9. 2016, c. 15, s. 64.

Same

(4) The clerk shall forward each report prepared under subsection (2) to the compliance audit committee. 2016, c. 15, s. 64.

5.2 2022 Municipal Election Financial Statements

Candidates in the 2022 Municipal Election were required to file financial statements on the prescribed Financial Statement – Auditor's Report Candidate – Form 4 (Form 4). Form 4 requires candidates to report the name, address and contribution amounts for any contributor who made a contribution of money or goods and services greater than \$100.00. Candidates were required to file a physical, signed copy of their Form 4 with the City Clerk or their designate no later than 2:00 p.m. on March 31, 2023.

Legislative Services staff compiled a list of contributors with their individual contribution amounts, campaigns contributed to and total contributions for review with respect to the contribution limits set out in section 88.9 of the Act. The data was carefully copied from each original Form 4 into the spreadsheet wherein any contributions exceeding the applicable limits would be automatically highlighted. At the close of the financial filing period, the highlighted contributions were reviewed again against the original Form 4's by Legislative Services staff to ensure accuracy. A separate report was then prepared for each contributor found to have made an apparent contravention of the contribution limits.

5.3 Contributions by D. Jamieson

From the list of contributors the following information has been extracted:

Candidate	Contributor's Last Name	Contributor's First Name	Street Address	City	Postal Code	Date Received	Amount Received
Joe Ingino	Jamieson	D.	404 Maplewood Drive	Oshawa	L1G 5R6	September 12, 2022	\$1356.00

Based on the foregoing, it appears that D. Jamieson of 404 Maplewood Drive, Oshawa, has contributed a total of \$1356 to a candidate for election to Oshawa City Council. This amount is \$156 more than the amount permitted under subsection 88.9(1) of the Act.

5.4 Duties of the Joint Compliance Audit Committee

Pursuant to subsection 88.34(8) of the Act, the Committee is required within 30 days after receiving this report, to consider it and decide whether to commence a legal proceeding against a contributor for an apparent contravention. The decision of the Committee and brief written reasons for the decision, shall be given to the contributor and to the City Clerk.

6.0 Financial Implications

The costs associated with the Committee are funded by the City's Election Reserve.

7.0 Relationship to the Oshawa Strategic Plan

Not applicable.

A handwritten signature in black ink, appearing to read 'Mary Medeiros', with a stylized flourish at the end.

Mary Medeiros, Director, Legislative Services/City Clerk,
Office of the C.A.O.

Financial Statement – Auditor's Report Candidate – Form 4 Municipal Elections Act, 1996 (Section 88.25)

Instructions

All candidates must complete Boxes A and B. Candidates who receive contributions or incur expenses must complete Boxes C, D, Schedule 1 and Schedule 2 as appropriate. Candidates who receive contributions or incur expenses in excess of \$10,000 must also attach an Auditor's Report.

All surplus funds (after any refund to the candidate or their spouse) shall be immediately paid to the clerk who is responsible for the conduct of the election.

For the campaign period from (day clerk received nomination)

YYYY	MM	DD
20	22	06

 to

YYYY	MM	DD
20	22	12

☒ Initial filing reflecting finances from start of campaign to December 31 (or 45 days after voting day in a by-election)

☐ Supplementary filing reflecting finances from start of campaign to end of extended campaign period

Box A: Name of Candidate and Office

Candidate's name as shown on the ballot

Last Name or Single Name

Given Name(s)

Office for Which the Candidate Sought Election

Ward Name or Number (if any)

Municipality

Spending Limit

General

\$ 100664.25

Parties and Other Expressions of Appreciation

\$ 10066.43

Contribution Limit

Contributions from Candidate and Spouse

\$ 25000 =

☐ I did not accept any contributions or incur any expenses. (Complete Boxes A and B only)

Box B: Declaration

I, JOE INGINO, declare that to the best of my knowledge and belief that these financial statements and attached supporting schedules are true and correct.

Signature of Candidate

Date (yyyy/mm/dd)

Date Filed (yyyy/mm/dd)

Time Filed

Initial of Candidate or Agent (if filed in person)

Signature of Clerk or Designate

2022/02/06

12:51pm

Box C: Statement of Campaign Income and Expenses**LOAN**

Name of bank or recognized lending institution

Amount borrowed
\$**INCOME**

Total amount of all contributions (from line 1A in Schedule 1)	+ \$	6586.63
Revenue from items \$25 or less	+ \$	
Sign deposit refund	+ \$	
Revenue from fundraising events not deemed a contribution (from Part III of Schedule 2)	+ \$	
Interest earned by campaign bank account	+ \$	
Other (provide full details)		
	+ \$	
	+ \$	
	+ \$	
	+ \$	
	+ \$	
	+ \$	

Total Campaign Income (Do not include loan)

= \$ 6,586.63 C1

EXPENSES (Note: Include the value of contributions of goods and services)**1. Expenses subject to general spending limit**Inventory from previous campaign used in this campaign
(list details in Table 2 of Schedule 1)

+ \$

Advertising

+ \$ 3000 =

Brochures/flyers

+ \$

Signs (including sign deposit)

+ \$ 3028.40

Meetings hosted

+ \$

Office expenses incurred until voting day

+ \$ 200 =

Phone and/or internet expenses incurred until voting day

+ \$ 1582.3

Salaries, benefits, honoraria, professional fees incurred until voting day

+ \$

Bank charges incurred until voting day

+ \$

Interest charged on loan until voting day

+ \$

Other (provide full details)

NOMINATION FEE + \$ 200 =

+ \$

+ \$

+ \$

+ \$

+ \$

Total Expenses subject to general spending limit

= \$ 6,586.63 C2

2. Expenses subject to spending limit for parties and other expressions of appreciation

	+ \$
	+ \$
	+ \$
	+ \$
	+ \$

Total Expenses subject to spending limit for parties and other expressions of appreciation**= \$ C3****3. Expenses not subject to spending limits**

Accounting and audit	+ \$
Cost of fundraising events/activities (list details in Part IV of Schedule 2)	+ \$
Office expenses incurred after voting day	+ \$
Phone and/or internet expenses incurred after voting day	+ \$
Salaries, benefits, honoraria, professional fees incurred after voting day	+ \$
Bank charges incurred after voting day	+ \$
Interest charged on loan after voting day	+ \$
Expenses related to recount	+ \$
Expenses related to controverted election	+ \$
Expenses related to compliance audit	+ \$
Expenses related to candidate's disability (provide full details)	
	+ \$
	+ \$
	+ \$
	+ \$
	+ \$

Other (provide full details)

	+ \$
	+ \$
	+ \$
	+ \$
	+ \$

Total Expenses not subject to spending limits**= \$ C4****Total Campaign Expenses (C2 + C3 + C4)****= \$ C5****Box D: Calculation of Surplus or Deficit**Excess (deficiency) of income over expenses
(Income minus Total Expenses) (C1 – C5)**+ \$ D1**

If there is a surplus, deduct any refund of candidate's or spouse's contributions to the campaign

– \$

Surplus (or deficit) for the campaign

= \$ D2

If line D2 shows a surplus, the amount must be paid in trust, at the time the financial statements are filed, to the municipal clerk who is responsible for the conduct of the election.

Schedule 1 – Contributions

Part I – Summary of Contributions

Contributions in money from candidate and spouse

+ \$ 3,158.23

Contributions in goods and services from candidate and spouse
(include value listed in Table 1 and Table 2)

+ \$ _____

Total value of contributions not exceeding \$100 per contributor

- Include ticket revenue, contributions in money, goods and services where the total contribution from a contributor is \$100 or less (do not include contributions from candidate or spouse).

+ \$ _____

Total value of contributions exceeding \$100 per contributor
(from line 1B; list details in Table 3 and Table 4)

- Include ticket revenue, contributions in money, goods and services where the total contribution from a contributor exceeds \$100 (do not include contributions from candidate or spouse).

+ \$ 3,428.40

Less: Ineligible contributions paid or payable to the contributor

Contributions paid or payable to the clerk, including contributions from anonymous sources exceeding \$25

- \$ _____

- \$ _____

Total Amount of Contributions (record under Income in Box C)

= \$ 6,586.63 1A

Part II – Contributions from candidate or spouse

Table 1: Contributions in goods or services

Description of Goods or Services	Date Received (yyyy/mm/dd)	Value (\$)
Total		

☐ Additional information is listed on separate supplementary attachment, if completed manually.

Table 2: Inventory of campaign goods and materials from previous municipal campaign used in this campaign
(Note: Value must be recorded as a contribution from the candidate and as an expense.)

Description	Date Acquired (yyyy/mm/dd)	Supplier	Quantity	Current Market Value (\$)
Total				

☐ Additional information is listed on separate supplementary attachment, if completed manually.

Part III – Contributions exceeding \$100 per contributor – individuals other than candidate or spouse

Table 3: Monetary contributions from individuals other than candidate or spouse

Name	Full Address	Date Received (yyyy/mm/dd)	Amount Received (\$)	Amount Returned to Contributor or Paid to Clerk (\$)
D. BLICK	136 S 1400 ST. N.	22/09/30	300-	
D. HART	1311 CHARTER CR.	22/06/14	100-	
Total			400-	

☐ Additional information is listed on separate supplementary attachment, if completed manually.

Table 4: Contributions in goods or services from individuals other than candidate or spouse
(Note: Must also be recorded as Expenses in Box C.)

Name	Full Address	Description of Goods or Services	Date Received (yyyy/mm/dd)	Value (\$)
D. JAMIESON	404 MAPLEWOOD DR	SIGNS	22/09/12	1356.
P. LAROSE	354 GLENDALE	SIGNS	22/09/15	316.40
R. Russo	243 HOWARD DR W.	SIGNS	22/09/02	1352-
Total				3028.40

☐ Additional information is listed on separate supplementary attachment, if completed manually.

Total for Part III – Contributions exceeding \$100 per contributor

(Add totals from Table 3 and Table 4 and record the total in Part 1 – Summary of Contributions)

\$ 3428.40 B

Schedule 2 – Fundraising Events and Activities

Complete a separate schedule for each event or activity held.

☐ Additional schedule(s) attached, if completed manually.

Fundraising Event/Activity

Description of fundraising event/activity _____

Date of event/activity (yyyy/mm/dd) _____

Part I – Ticket revenue

Admission charge (per person) \$ _____ 2A

(If there are a range of ticket prices, attach complete breakdown of all ticket sales)

Number of tickets sold x _____ 2B

Total Part I (2A X 2B) (include in Part I of Schedule 1) = \$ _____

Part II – Other revenue deemed a contribution

Provide details (e.g., revenue from goods sold in excess of fair market value)

_____	+ \$
_____	+ \$
_____	+ \$
_____	+ \$
_____	+ \$

Total Part II (include in Part I of Schedule 1) = \$ _____

Part III – Other revenue not deemed a contribution

Provide details (e.g., contribution of \$25 or less; goods or services sold for \$25 or less)

_____	+ \$
_____	+ \$
_____	+ \$
_____	+ \$
_____	+ \$

Total Part III (include under Income in Box C) = \$ _____

Part IV – Expenses related to fundraising event or activity

Provide details

_____	+ \$
_____	+ \$
_____	+ \$
_____	+ \$
_____	+ \$

Total Part IV Expenses (include under Expenses in Box C) = \$ _____

Auditor's Report – Municipal Elections Act, 1996 (Section 88.25)

A candidate who has received contributions or incurred expenses in excess of \$10,000 must attach an auditor's report.

Professional Designation of Auditor

Municipality			Date (yyyy/mm/dd)	
Contact Information				
Last Name or Single Name			Given Name(s)	Licence Number
Address				
Suite/Unit Number	Street Number	Street Name		
Municipality			Province	Postal Code
Telephone Number		Email Address		

The report must be done in accordance with generally accepted auditing standards and must:

- set out the scope of the examination
- provide an opinion as to the completeness and accuracy of the financial statement and whether it is free of material misstatement

☐ Report is attached

Personal information, if any, collected on this form is obtained under the authority of sections 88.25 and 95 of the *Municipal Elections Act, 1996*. Under section 88 of the *Municipal Elections Act, 1996* (and despite anything in the *Municipal Freedom of Information and Protection of Privacy Act*) documents and materials filed with or prepared by the clerk or any other election official under the *Municipal Elections Act, 1996* are public records and, until their destruction, may be inspected by any person at the clerk's office at a time when the office is open. Campaign financial statements shall also be made available by the clerk in an electronic format free of charge upon request.