

To: Joint Compliance Audit Committee

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

Report Number: JCAC-23-02

Date of Report: May 17, 2023

Date of Meeting: May 24, 2023

Subject: Apparent contravention by Quito Maggi 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 Quito Maggi of 558 Duff Crescent, Gloucester.

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

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 – Jonathan Giancroce

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 Quito Maggi

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
Jonathan Giancroce	Maggi	Quito	558 Duff Cres	Gloucester	K1J 7C5	September 13, 2022	\$1250.00

Based on the foregoing, it appears that Quito Maggi of 558 Duff Crescent, Gloucester, has contributed a total of \$1250 to a candidate for election to Oshawa City Council. This amount is \$50 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.

WILLIAM MOLSON CPA

2333 Queen Street East
Toronto
ON M4E 1H1
Canada

Tel: 416 930 1651

To Mary Madeiros, City Clerk, City of Oshawa

Qualified Opinion

I have audited the Financial Statement of Jonathan Giancroce, candidate, which comprises the Statement of Campaign Income and Expenses, the Calculation of Surplus or Deficit, and the attached Schedules of Contributions, and Fundraising Events and Activities, and a covering page with candidate information relating to the election held on October 24, 2022. This financial information has been prepared by the candidate, in accordance with the accounting requirements of sections 88.8 through 88.32 of the *Municipal Elections Act, 1996*.

In my opinion, except for the possible effects of the matter described in the Basis for Qualified Opinion section of my report, the accompanying Financial Statement of Jonathan Giancroce for the campaign period from May 2, 2022 to January 3, 2023 is prepared, in all material respects, in accordance with the accounting requirements of the *Municipal Elections Act, 1996*.

Basis for Qualified Opinion

Due to the inherent nature of the transactions of electoral campaigns, the completeness of contributions and other revenue and expenses is not susceptible to my obtaining evidence I considered necessary for the purposes of the review. Accordingly, the evidence obtained of these contributions and other revenue and expenses was limited to the amounts recorded in the campaign accounting records of Jonathan Giancroce. Therefore I was not able to determine whether any adjustments might be necessary to contributions and other revenue and expenses. My conclusion on the Financial Statement for the campaign period was modified accordingly because of the possible effects of this limitation in scope.

I conducted my audit in accordance with Canadian generally accepted auditing standards. My responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statement section of my report. I am independent of Jonathan Giancroce in accordance with the ethical requirements that are relevant to my audit of financial statements in Canada, and I have fulfilled my other ethical responsibilities in accordance with these requirements. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my qualified opinion.

The Candidate's Responsibility for the Financial Statement

The candidate is responsible for the preparation of the Financial Statement in accordance with the provisions of sections 88.8 through 88.32 of the *Municipal Elections Act, 1996* and for such internal control as the candidate determines is necessary to enable the preparation of the financial statement free from material misstatement, whether due to fraud or error.

Auditor's Responsibility for the Audit of the Financial Statement

My objective is to obtain reasonable assurance about whether the Financial Statement as a whole is free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with Canadian generally accepted auditing standards will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the decisions of users taken on the basis of these financial statements.

As part of an audit in accordance with Canadian generally accepted auditing standards, I exercise professional judgment and maintain professional skepticism throughout the audit. I also:

- Identify and assess the risks of material misstatement in the Financial Statement, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.

- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the candidate's campaign internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the candidate.
- Evaluate the overall presentation, structure and content of the Financial Statement, and whether the Financial Statement represents the underlying transactions and events in a manner consistent with the accounting requirements of the Municipal Elections Act, 1996.

Basis of Accounting

Without modifying my qualified opinion, I draw attention to the basis of accounting of the Financial Statement, which is that presented in Form 4 as prescribed under the *Municipal Elections Act, 1996*. As a result, the Financial Statement may not be suitable for another purpose.

William Motson CPA

Chartered Professional Accountant, Licensed Public Accountant

March 25, 2023

Toronto, Ontario

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
2 0 2 2	0 5	0 2

 to

YYYY	MM	DD
2 0 2 3	0 1	0 3

☒ 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
Giancroce

Given Name(s)
Jonathan

Office for Which the Candidate Sought Election
City Councillor

Ward Name or Number (if any)
2

Municipality
City of Oshawa

Spending Limit
General
\$25,488.40

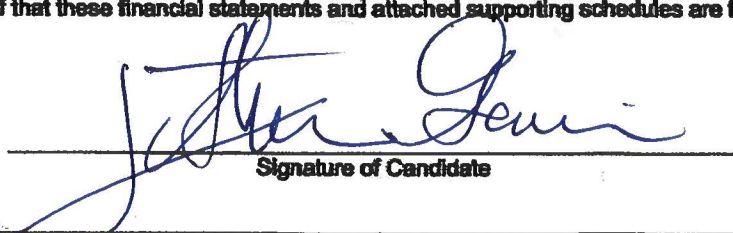
Parties and Other Expressions of Appreciation
\$2,548.84

Contribution Limit
Contributions from Candidate and Spouse
\$9,820.80

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

Box B: Declaration

I, Jonathan Giancroce, 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

2023/03/28th
Date (yyyy/mm/dd)

Date Filed (yyyy/mm/dd) <u>2023/03/28</u>	Time Filed <u>1:42 pm</u>	Initial of Candidate or Agent (if filed in person) 	Signature of Clerk or Designate 
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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)	+ \$	10,988.47
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)		
1. PayPal testing	+ \$	0.14
2.	+ \$	
3.	+ \$	
4.	+ \$	
5.	+ \$	
6.	+ \$	

Total Campaign Income (Do not include loan)

= \$ 10,988.61 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)	+ \$	3,585.00
Advertising	+ \$	2,944.10
Brochures/flyers	+ \$	1,582.45
Signs (including sign deposit)	+ \$	1,878.00
Meetings hosted	+ \$	
Office expenses incurred until voting day	+ \$	25.64
Phone and/or internet expenses incurred until voting day	+ \$	265.23
Salaries, benefits, honoraria, professional fees incurred until voting day	+ \$	
Bank charges incurred until voting day	+ \$	174.37
Interest charged on loan until voting day	+ \$	
Other (provide full details)		
1. Voter ID calls	+ \$	3,785.50
2. Travel	+ \$	298.65
3.	+ \$	
4.	+ \$	
5.	+ \$	
6.	+ \$	

Total Expenses subject to general spending limit = \$ 14,338.94 C2

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

1. Election night party Canadian Brew House	+ \$	270.43
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2.		+ \$	
3.		+ \$	
4.		+ \$	
5.		+ \$	
Total Expenses subject to spending limit for parties and other expressions of appreciation		= \$	270.43 C3

3. Expenses not subject to spending limits

Accounting and audit	+ \$	750.00	
Cost of fundraising events/activities (list details in Part IV of Schedule 2)	+ \$		
Office expenses incurred after voting day	+ \$	87.03	
Phone and/or internet expenses incurred after voting day	+ \$		
Salaries, benefits, honoraria, professional fees incurred after voting day	+ \$		
Bank charges incurred after voting day	+ \$	5.85	
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)			
1.	+ \$		
2.	+ \$		
3.	+ \$		
4.	+ \$		
5.	+ \$		
Other (provide full details)			
1.	+ \$		
2.	+ \$		
3.	+ \$		
4.	+ \$		
5.	+ \$		
Total Expenses not subject to spending limits	= \$	842.88	C4

Total Campaign Expenses (C2 + C3 + C4) = \$ 15,452.25 C5

Box D: Calculation of Surplus or Deficit

Excess (deficiency) of income over expenses (Income minus Total Expenses) (C1 – C5)	+ \$	-4,463.64	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	= \$	-4,463.64	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	+ \$	1,250.00	
Contributions in goods and services from candidate and spouse (include value listed in Table 1 and Table 2)	+ \$	3,763.47	
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).	+ \$	375.00	
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).	+ \$	5,600.00	
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)	= \$	10,988.47	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 (\$)
Web related services	2022/05/02	178.47
	Total	178.47

☐ 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 (\$)
Small signs from 2018 campaign	2018/08/24	Lakefront Grafix	200	688.10
Large signs from 2018 Campaign	2018/08/24	Lakefront Grafix	100	812.70
Stakes from 2018 Campaign	2018/07/11	Peacock Lumber	400	723.30
Printed materials from 2018 Campaign	2018/07/11	Millenium Printing	1	200.00
H-frames	2018/08/24	Lakefront Grafix	1	390.73
Additional sign materials	2018/07/11	Home Depot	1	770.17
			Total	3,585.00

☐ 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 (\$)
See list attached			5,600.00	
Total			5,600.00	

☐ 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 (\$)
Total				

☒ 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) \$ 5,600.00 1B

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 1**

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)

1.	_____	+ \$
2.	_____	+ \$
3.	_____	+ \$
4.	_____	+ \$
5.	_____	+ \$

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)

1.	_____	+ \$
2.	_____	+ \$
3.	_____	+ \$
4.	_____	+ \$
5.	_____	+ \$

Total Part III (Include under Income in Box C)

= \$ _____

Part IV – Expenses related to fundraising event or activity

Provide details

1.	_____	+ \$
2.	_____	+ \$
3.	_____	+ \$
4.	_____	+ \$
5.	_____	+ \$

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

Chartered Professional Accountant

Municipality City of Toronto	Date (yyyy/mm/dd) 2023/03/25
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Contact Information

Last Name or Single Name Molson	Given Name(s) William	Licence Number 1-18660
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Address

Suite/Unit Number	Street Number 2333	Street Name Queen Street East
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Municipality City of Toronto	Province ON	Postal Code M4E 1H1
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Telephone Number 416-930-1651	Email Address william@molsonca.com
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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.

Contributor_last_n	Contributor_first_n	Is_Candidate	Street_Number	Date_Received	Monetary	Goods/Services	Goods/Services Desc
Gaincroce	Jonathan	Y	2470 Rosedrop Path, Oshawa, ON L1L 0L2	7/19/22	5		
Sartori	Doug	no	4261 Roseland Dr, Windsor, N9G 2A1	7/20/22	100		
Rang	Lloyd	no	115 Nelson St, Bowmanville On, L1C 0A1	8/16/22	100		
Pretlove	David	no	124 Winchester Street, Toronto, ON M4X 1B4	8/18/22	500		
Hall	Ian	no	2505 - 300 Blood St Em Toronto, ON, M4W 3Y2	8/19/22	50		
Yaccato	Chris	no	49 Cliffside Dr, Scarborough, On, M1N1L3	8/20/22	150		
Varley	Douglas	no	132 Brighton St, Waterloo, On, N2J 4S5	8/20/22	75		
Musalin	Kazi	no	22 Moses Cream Bowmanville, ON, L1C 0T7	8/23/22	200		
Osborne	Eric	no	18 Worthington Dr, Courtice ON, L1E 1V8	9/2/22	250		
Jain	Rahul	no	11 Osgoode Gate, Courtice, ON L1E 1V8	9/3/22	300		
Giancroce	Jonathan	Y	2470 Rosedrop Path, Oshawa, ON L1L 0L2	9/6/22	1245		
Borchenko	Lucas	no	384 McLearn St, Ottawa, On, K2P 0M8	9/13/22	50		
Maggi	Quito	no	558 Duff Cres, Gloucester, On, K1J 7C5	9/13/22	1250		
Fitzgerald	Kyle	no	875 Sommerville Street, Oshawa, ON L1G 4J6	9/15/22	500		
Hernandes	Peter	no	847 Oshawa Blvd. N., Oshawa, ON L1G 5V5	9/18/22	300		
Schristie	Samantha	no	24 South Well Avenue, Whitby, ON L1P 1N4	9/23/22	200		
Hernandes	Peter	no	847 Oshawa Blvd. N., Oshawa, ON L1G 5V5	9/27/22	250		
Carter	Dave	no	797 Tatra Drive, Oshawa ON L1J 6S5	11/14/22	200		
Ibrahim	Daniel	no	847 Oshawa Blvd. N., Oshawa, ON L1G 5V5	10/31/22	500		
Anderson	Granville	no	88 Westover Drive, Bowmanville, ON L1C 0G5	8/30/22	250		
Longo	Ferdinand	no	15 Barrington Place, Courtice, ON L1E 2K9	7/14/22	750		