Addendum to the Report for the City of Hamilton

Municipal Election Compliance Audit on Campaign Finances of Candidate Larry Di Ianni

February 6, 2006
Background to the Compliance Audit

This compliance audit was the result of an appeal by an elector, Joanna Chapman ("Chapman"), regarding her request for a compliance audit under Section 81 of the Municipal Elections Act, 1996 (the "Act"). Justice Timothy Culver ordered the City of Hamilton to conduct an audit of the financial statements submitted by three candidates in the 2003 municipal election in Hamilton – John Best, Marvin Caplan and Larry Di Ianni.

Ken Froese of LECG Canada Ltd. ("LECG") was retained to conduct a compliance audit in accordance with the Act. Subsection 81(6) of the Act requires that the auditor "prepare a report outlining any apparent contravention by the candidate."

We issued a report dated October 25, 2005 that outlined our findings based on information reasonably available to Mayor Larry Di Ianni ("Di Ianni") when contributions were accepted, without assuming that he had the level of information potentially available from conducting a forensic investigation of contributions to his campaign.

That report proposed to the City of Hamilton that the compliance audit be extended to address additional matters where the information provided by contributors either did not resolve the issue or the information raised further questions as to whether the contributions were appropriate. These matters were categorized as follows:

A. Contributions made by apparent associated companies;
B. Contributions made by certain councils, associations and labour organizations;
C. Contributions made by companies that do not appear to be corporations; and
D. Contributions listed as "in-kind".

This report contains our findings from the second phase of the compliance audit of the financial statements submitted by Di Ianni and should be read in conjunction with our Report dated October 25, 2005.

This report addresses the sixteen issues that related to contributions to Di Ianni’s campaign for which we recommended further compliance audit procedures. For each issue, we have summarized the reasons we recommended further procedures, the response we received from the contributors, and our findings related to possible contraventions of the Municipal Elections Act, 1996 (the "Act").

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1 Corporate searches reveal only Officers, Directors and Administrators, not shareholders, and the Municipal Elections Act, 1996 is based primarily on share ownership, according to Subsection 72.
2 Contributions received from labour associations and / or labour-related organizations that do not appear to hold bargaining rights for workers in Ontario, as required by Subsection 70 (3) of the Act.
3 For the purposes of this report, we have expanded two of the sixteen issues into their components, thus resulting in a total of 22 issues in this report, and categorized them under various headings.
A. Contributions Made by Apparent Associated Companies

(1) Contributions from Companies at 161 Rebecca Street, Hamilton

<table>
<thead>
<tr>
<th>Company Name</th>
<th>Address</th>
<th>Date of Contribution</th>
<th>Amount of Contribution</th>
<th>Refunded Contribution</th>
<th>Net Contribution</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adisco Limited</td>
<td>161 Rebecca St.</td>
<td>7-Oct-03</td>
<td>$250.00</td>
<td>$250.00</td>
<td></td>
</tr>
<tr>
<td>Adisco Limited</td>
<td>161 Rebecca St.</td>
<td>25-Jun-03</td>
<td>200.00</td>
<td>200.00</td>
<td></td>
</tr>
<tr>
<td>Crystal Homes Corp.</td>
<td>161 Rebecca St.</td>
<td>25-Jun-03</td>
<td>400.00</td>
<td>400.00</td>
<td></td>
</tr>
<tr>
<td>Urbex Engineering Limited</td>
<td>161 Rebecca St.</td>
<td>25-Jun-03</td>
<td>200.00</td>
<td>200.00</td>
<td></td>
</tr>
<tr>
<td>740920 Ontario Ltd.</td>
<td>161 Rebecca St.</td>
<td>5-Nov-03</td>
<td>200.00</td>
<td>200.00</td>
<td></td>
</tr>
<tr>
<td>Laudis Corporation</td>
<td>161 Rebecca St.</td>
<td>5-Nov-03</td>
<td>200.00</td>
<td>200.00</td>
<td></td>
</tr>
<tr>
<td>Urbex Engineering Limited</td>
<td>161 Rebecca St.</td>
<td>5-Nov-03</td>
<td>200.00</td>
<td>200.00</td>
<td></td>
</tr>
<tr>
<td>1224409 Ontario Ltd.</td>
<td>161 Rebecca St.</td>
<td>24-Nov-04</td>
<td>600.00</td>
<td>600.00</td>
<td></td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td></td>
<td></td>
<td><strong>$2,150.00</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

In addition to the same address:
- Urbex Engineering Limited ("Urbex") used to be called Adisco (Windsor) Ltd.;
- 740920 Ontario Ltd. and Laudis Corporation ("Laudis") use separate bank accounts at the same bank branch;
- Anthony Di Silvestro is a Director of Adisco Limited, 740920 Ontario Ltd. and 1224409 Ontario Ltd. ("1224409");
- Laura Di Silvestro is a Director of Laudis Corporation;
- Marie Di Silvestro is a Director of Urbex Engineering Limited; and
- Urbex, Laudis and 1224409 have the same telephone number.

The companies provided us the information we requested of them. Based on our review of the companies’ shareholder registers and relevant sections of their 2003 and 2004 T2 Corporation Income Tax Returns, we are satisfied that the companies’ shareholder composition and income tax reporting is consistent with the companies not being associated.

Accordingly, we have concluded that there were no apparent contraventions of the Act in relation to these contributors.

(2) Contributions from Cordra Inc. and Moscor Inc.

<table>
<thead>
<tr>
<th>Company Name</th>
<th>Address</th>
<th>Date of Contribution</th>
<th>Amount of Contribution</th>
<th>Refunded Contribution</th>
<th>Net Contribution</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cordra Inc.</td>
<td>3536 Indian Trail R.R. #8</td>
<td>3-Nov-03</td>
<td>$750.00</td>
<td>$750.00</td>
<td></td>
</tr>
<tr>
<td>Moscor Inc.</td>
<td>3536 Indian Trail R.R. #8</td>
<td>3-Nov-03</td>
<td>750.00</td>
<td>750.00</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>$1,500.00</td>
</tr>
</tbody>
</table>
Both companies share the same address as Lori and Dean Mosca, who together also personally contributed $750 to the Mayor's campaign.

The companies provided us the information we requested of them. Based on our review of the companies' shareholder registers, we are satisfied that the companies' shareholder composition is consistent with the companies not being associated.

Accordingly, we have concluded that there were no apparent contraventions of the Act in relation to these contributors.

(3) Contributions from CDN Construction, CDN Excavating Inc. and CDN Trucking Inc.

<table>
<thead>
<tr>
<th>Company Name</th>
<th>Address</th>
<th>Date of Contribution</th>
<th>Amount of Contribution</th>
<th>Refunded Contribution</th>
<th>Net Contribution</th>
</tr>
</thead>
<tbody>
<tr>
<td>CDN Construction</td>
<td>1625 Stone Church Rd. E.</td>
<td>3-Nov-03</td>
<td>$750.00</td>
<td>$750.00</td>
<td>$750.00</td>
</tr>
<tr>
<td>CDN Excavating Inc.</td>
<td>1625 Stone Church Rd. E.</td>
<td>3-Nov-03</td>
<td>750.00</td>
<td>750.00</td>
<td>750.00</td>
</tr>
<tr>
<td>CDN Trucking Inc.</td>
<td>1625 Stone Church Rd. E.</td>
<td>3-Nov-03</td>
<td>750.00</td>
<td></td>
<td>750.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td></td>
<td><strong>$2,250.00</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

In performing corporate searches with the Ministry of Business and Consumer Affairs:

- CDN Excavating was the name of a business operating through the registered company, 815486 Ontario Inc.;
- CDN Construction was the name of a business operating through the registered company, 646787 Ontario Inc.; and
- CDN Trucking was the name of a business operating through the registered company, 1315511 Ontario Inc.

In addition to the same address:

- the contributions were all recorded as being received on November 3, 2003;
- all three entities used cheques drawn on separate bank accounts at the same bank branch; and
- Mr. Gabriel Giannobile is the sole Director of CDN Construction (operating under 815486 Ontario Inc.) and CDN Excavating (operating under 646787 Ontario Inc.).

The companies provided us the information we requested of them. Based on our review of the companies' shareholder registers and relevant sections of their 2003 T2 Corporation Income Tax Returns, we are satisfied that the companies' shareholder composition and income tax reporting is consistent with the companies not being associated.

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4 The company names are as listed on the final contributors list.
Accordingly, we have concluded that there were no apparent contraventions of the Act in relation to these contributors. However, there were apparent reporting contraventions as the three businesses should have been captured on the contributors list under the name of the operating companies. Our conclusion relied on information not otherwise provided to Di Ianni.

(4) Contributions from Fifty Road Joint Venture Inc. and Rowhedge Construction Limited

<table>
<thead>
<tr>
<th>Company Name</th>
<th>Address</th>
<th>Date of Contribution</th>
<th>Amount of Contribution</th>
<th>Refunded Contribution</th>
<th>Date of Refund</th>
<th>Date of Refund</th>
<th>Net Contribution</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fifty Road Joint Venture Inc.</td>
<td>136 Allan St.</td>
<td>30-Sep-03</td>
<td>$ 400.00</td>
<td>$ (400.00)</td>
<td>31-Mar-04</td>
<td></td>
<td>$ 750.00</td>
</tr>
<tr>
<td>Fifty Road Joint Venture Inc.</td>
<td>136 Allan St.</td>
<td>7-Oct-03</td>
<td>750.00</td>
<td></td>
<td></td>
<td></td>
<td>$ 750.00</td>
</tr>
<tr>
<td>Rowhedge Construction Ltd.</td>
<td>136 Allan St.</td>
<td>27-May-04</td>
<td>400.00</td>
<td></td>
<td></td>
<td></td>
<td>400.00</td>
</tr>
<tr>
<td>Rosehaven Homes Limited</td>
<td>132 Allan St.</td>
<td>7-Oct-03</td>
<td>750.00</td>
<td>$(750.00)</td>
<td>13-Aug-04</td>
<td></td>
<td>-</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>$ 1,500.00</td>
</tr>
</tbody>
</table>

Giovanni Guglietti is the President and a Director of both Rowhedge Construction Ltd. and Fifty Road Joint Venture Inc.

The companies provided us the information we requested of them. Based on our review of the companies’ shareholder registers and relevant sections of their 2003 T2 Corporation Income Tax Returns, we are satisfied that the companies’ shareholder composition and income tax reporting is consistent with the companies not being associated.

Accordingly, we have concluded that there were no apparent contraventions of the Act in relation to these contributors.

The $400 contribution by Fifty Road Joint Venture Inc. was refunded by Di Ianni as multiple contributions had resulted in the total contribution exceeding $750.

According to the letter accompanying the refunded $750 to Rosehaven Homes, Di Ianni stated “we were unable to verify whether this was an over contribution, therefore to err on the side of caution the campaign is returning this amount”. The documentation provided to us by Fifty Road Joint Venture Inc. and Rowhedge Construction Limited disclosed that Rosehaven Homes Limited was not associated with either company. Therefore, the refund of $750 issued to Rosehaven Homes Ltd. by Di Ianni was likely not required as there was no apparent contravention of the Act.
Lecg
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(5) Contributions from I. Waxman & Sons Limited, Lightning Distribution Inc, and Glow Metal Trading Inc.

<table>
<thead>
<tr>
<th>Company Name</th>
<th>Address</th>
<th>Date of Contribution</th>
<th>Amount of Contribution</th>
<th>Refunded Contribution</th>
<th>Net Contribution</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lightning Distribution Inc.</td>
<td>500 Centennial Parkway N.</td>
<td>24-Jun-03</td>
<td>$ 750.00</td>
<td>$ 750.00</td>
<td>$ 750.00</td>
</tr>
<tr>
<td>I. Waxman &amp; Sons Ltd.</td>
<td>500 Centennial Parkway N.</td>
<td>24-Jun-03</td>
<td>750.00</td>
<td>750.00</td>
<td>750.00</td>
</tr>
<tr>
<td>Glow Metal Trading Inc.</td>
<td>168 Colborne Street W.</td>
<td>24-Nov-04</td>
<td>750.00</td>
<td></td>
<td>2,250.00</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>$ 2,250.00</td>
</tr>
</tbody>
</table>

Chester Waxman, Bailey Waxman, Gary Waxman and Wayne Linton are Directors of both I. Waxman & Sons Limited and Lightning Distributions Inc. Warren Waxman is a Director for both Glow Metal Trading Inc and I. Waxman & Sons Limited.

Waxman Metal Management advised Taylor Leibow that I. Waxman & Sons Limited and Lightning Distribution Inc. were not associated companies and were not associated with any other contributors. However, counsel for I. Waxman & Sons Limited and Lightning Distribution Inc. confirmed to us that the two companies were associated under the Income Tax Act, but that neither company was associated with Glow Metal Trading Inc.

I. Waxman & Sons Limited and Lightning Distribution Inc. each provided us the information we requested of them. Based on our review of the shareholder registers and relevant sections of their 2003 T2 Corporation Income Tax Returns, we are satisfied that the companies' shareholder composition and income tax reporting is consistent with I. Waxman & Sons Limited and Lightning Distribution Inc. being associated and with both of them not being associated with Glow Metal Trading Inc.

Accordingly, there was an over contribution of $750 as a result of I. Waxman & Sons Limited and Lightning Distribution Inc. being associated. We concluded that this is an apparent contravention of the Act. However, Taylor Leibow had been provided information that suggested that there was no apparent contravention of the Act and our conclusion relied on information not otherwise provided to Di Ianni.
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<table>
<thead>
<tr>
<th>Company Name</th>
<th>Address</th>
<th>Date of Contribution</th>
<th>Amount of Contribution</th>
<th>Refunded Contribution</th>
<th>Date of Refund</th>
<th>Net Contribution</th>
</tr>
</thead>
<tbody>
<tr>
<td>Losani Homes (1998) Ltd.</td>
<td>237 Barton St. 237 Barton St. E. Suite 201</td>
<td>31-Oct-03 31-Oct-03</td>
<td>$ 500.00 $ 750.00</td>
<td>$(500.00)</td>
<td>29-Apr-04</td>
<td>$ 750.00</td>
</tr>
<tr>
<td>1540814 Ontario Ltd.</td>
<td>237 Barton St. E. Suite 201</td>
<td>31-Oct-03</td>
<td>750.00</td>
<td>$(750.00)</td>
<td>3-Feb-05</td>
<td>-</td>
</tr>
<tr>
<td>1541079 Ontario Ltd.</td>
<td>237 Barton St. E. Suite 201</td>
<td>31-Oct-03</td>
<td>750.00</td>
<td>Reallocated - see following paragraph</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Losani Homes Ltd.</td>
<td>237 Barton St. E. Suite 201</td>
<td>31-Oct-03</td>
<td>750.00</td>
<td>$(750.00)</td>
<td>3-Feb-05</td>
<td>-</td>
</tr>
<tr>
<td>1277289 Ontario Ltd.</td>
<td>237 Barton St. E. Suite 201</td>
<td>31-Oct-03</td>
<td>750.00</td>
<td>$(750.00)</td>
<td>3-Feb-05</td>
<td>-</td>
</tr>
<tr>
<td>542254 Ontario Ltd.</td>
<td>127 Plains Rd. W.</td>
<td>7-Oct-03</td>
<td>750.00</td>
<td>-</td>
<td>-</td>
<td>750.00</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
<td>$ 4,250.00</td>
<td></td>
<td></td>
<td>$ 1,500.00</td>
</tr>
</tbody>
</table>

The Mayor’s campaign refunded over-contributions of $2,000 which were the result of contributions made by associated companies. Losani Homes Ltd.’s contribution of $750 was removed from the financial statement due to a "clerical error" in the previous filings and reallocated to Fred and Lino Losani on the final financial statements. While the cheque was issued from Losani Homes Ltd., the letter accompanying the cheque denoted that the donation was from Fred and Lino Losani personally.

The companies remaining on the final contributors list, 1540814 Ontario Ltd. and 542254 Ontario Ltd., provided us the information we requested of them. Based on our review of the companies’ shareholder registers and relevant sections of their 2003 T2 Corporation Income Tax Returns, we are satisfied that the companies’ shareholder composition and income tax reporting is consistent with the companies not being associated.

Accordingly, we have concluded that there were no apparent contraventions of the Act in relation to these contributors.
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(7) Contributions from McMaster Investments Limited, Fazekas Holdings Inc and the Effort Trust Company

<table>
<thead>
<tr>
<th>Company Name</th>
<th>Address</th>
<th>Date of Contribution</th>
<th>Amount of Contribution</th>
<th>Refunded Contribution</th>
<th>Date of Refund</th>
<th>Net Contribution</th>
</tr>
</thead>
<tbody>
<tr>
<td>McMaster Investments Ltd.</td>
<td>242 Main St. E. 2nd Flr.</td>
<td>7-Oct-03</td>
<td>$ 250.00</td>
<td></td>
<td></td>
<td>$ 250.00</td>
</tr>
<tr>
<td>McMaster Investments Ltd.</td>
<td>242 Main St. E. 2nd Flr.</td>
<td>25-Jun-03</td>
<td>200.00</td>
<td></td>
<td></td>
<td>200.00</td>
</tr>
<tr>
<td>Fazekas Holdings Inc.</td>
<td>clo 242 Main St. E.</td>
<td>27-May-04</td>
<td>750.00</td>
<td></td>
<td></td>
<td>750.00</td>
</tr>
<tr>
<td>The Effort Trust Company</td>
<td>240 Main Street East</td>
<td>7-Oct-03</td>
<td>500.00</td>
<td></td>
<td></td>
<td>500.00</td>
</tr>
<tr>
<td>The Effort Trust Company</td>
<td>240 Main Street East</td>
<td>25-Jun-03</td>
<td>400.00</td>
<td>(150.00)</td>
<td>29-Apr-04</td>
<td>250.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td></td>
<td><strong>$ 2,100.00</strong></td>
<td></td>
<td></td>
<td><strong>$ 1,950.00</strong></td>
</tr>
</tbody>
</table>

In addition to the similar address:
- The cheques for each of the companies list the company addresses as either 240 or 242 Main St E. in Hamilton;
- “Effort Trust Company Fazekas Inc” is listed on the cheque used to make the $750 donation from Fazekas;
- Thomas Weisz is a Director of Fazekas Holdings and Effort Trust Company; and
- Ben Sauder is a Director of McMaster Investments and Effort Trust Company.

The companies provided us the information we requested of them. Based on our review of the companies’ shareholder registers and relevant sections of their 2003 T2 Corporation Income Tax Returns, we are satisfied that the companies’ shareholder composition and income tax reporting is consistent with the companies not being associated.

Accordingly, we have concluded that there were no apparent contraventions of the Act in relation to these contributors.

(8) Contributions from McNally Construction Inc. and Bay-Area Infrastructure Inc.

<table>
<thead>
<tr>
<th>Company Name</th>
<th>Address</th>
<th>Date of Contribution</th>
<th>Amount of Contribution</th>
<th>Refunded Contribution</th>
<th>Net Contribution</th>
</tr>
</thead>
<tbody>
<tr>
<td>McNally Construction Inc.</td>
<td>1855 Barton St. E., P.O. Box 3338 LCD 4</td>
<td>10-Nov-03</td>
<td>$ 750.00</td>
<td></td>
<td>$ 750.00</td>
</tr>
<tr>
<td>Bay Area Infrastructure Inc.</td>
<td>1855 Barton St. E., P.O. Box 3338 LCD 4</td>
<td>9-Nov-04</td>
<td>600.00</td>
<td></td>
<td>600.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td></td>
<td><strong>$ 1,350.00</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
In addition to the similar addresses, John Hutton and Patrick McNally were Directors for both McNally Construction and Bay-Area Infrastructure.

We were unable to locate a response to Taylor Leibow from either McNally Construction or Bay-Area Infrastructure. However, McNally Construction Inc. confirmed to us that the companies were associated under the Income Tax Act.

Accordingly, there was an over contribution of $600 which we have concluded is an apparent contravention of the Act. However, our conclusion relied on information not otherwise provided to Di Ianni.

(9) Contributions from V&R Investments Inc and Matterhorn Construction Limited

<table>
<thead>
<tr>
<th>Company Name</th>
<th>Address</th>
<th>Date of Contribution</th>
<th>Amount of Contribution</th>
<th>Refunded Contribution</th>
<th>Net Contribution</th>
</tr>
</thead>
<tbody>
<tr>
<td>Matterhorn Construction Ltd.</td>
<td>155 Market St.</td>
<td>16-Oct-03</td>
<td>$ 500.00</td>
<td></td>
<td>$ 500.00</td>
</tr>
<tr>
<td>V&amp;R Investments Inc.</td>
<td>155 Market St.</td>
<td>16-Oct-03</td>
<td>500.00</td>
<td></td>
<td>500.00</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>$ 1,000.00</td>
</tr>
</tbody>
</table>

The two companies were listed on the final contributors list as “revisions”. The two $500 contributions were originally listed on the financial statements as Vince Molinaro and Domenic Molinaro, respectively. Vince and Domenic Molinaro are Directors for both corporations.

The companies provided us the information we requested of them. Based on our review of the relevant sections of their 2003 T2 Corporation Income Tax Returns, we are satisfied that the income tax reporting is consistent with the companies not being associated.

Accordingly, we have concluded that there were no apparent contraventions of the Act in relation to these contributors.

(10) Contributions from J. Voortman & Associates Ltd., Oakrun Farm Bakery Ltd. and Burman Homes Inc.

<table>
<thead>
<tr>
<th>Company Name</th>
<th>Address</th>
<th>Date of Contribution</th>
<th>Amount of Contribution</th>
<th>Refunded Contribution</th>
<th>Date of Refund</th>
<th>Net Contribution</th>
</tr>
</thead>
<tbody>
<tr>
<td>J. Voortman &amp; Associates Ltd.</td>
<td>58 Carluke Rd.</td>
<td>25-Jun-03</td>
<td>$ 750.00</td>
<td>$(750.00)</td>
<td>12-Aug-04</td>
<td>$ -</td>
</tr>
<tr>
<td>Oakrun Farm Bakery Ltd.</td>
<td>58 Carluke Rd.</td>
<td>25-Jun-03</td>
<td>750.00</td>
<td></td>
<td></td>
<td>750.00</td>
</tr>
<tr>
<td>Burman Homes Inc.</td>
<td>542 Jerseyville Rd., RR#1</td>
<td>25-Jun-03</td>
<td>400.00</td>
<td></td>
<td></td>
<td>400.00</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
<td>$ 1,900.00</td>
<td></td>
<td></td>
<td>$ 1,150.00</td>
</tr>
</tbody>
</table>
Burman Homes Inc. had a different address than J. Voortman & Associates Ltd. and Oakrun Farm Bakery Ltd. However, John Voortman appeared to be a Director of all three corporations.

The companies provided us the information we requested of them. Based on our review of Burman Homes Inc.'s shareholder register and relevant sections of its 2003 T2 Corporation Income Tax Returns, we are satisfied that the company's income tax reporting is consistent with the companies not being associated.

Accordingly, we have concluded that there were no apparent contraventions of the Act in relation to these contributors.

(11) Contributions from Fengate Property Management Ltd. and San Pete Developments Ltd.

<table>
<thead>
<tr>
<th>Company Name</th>
<th>Address</th>
<th>Date of Contribution</th>
<th>Amount of Contribution</th>
<th>Refunded Contribution</th>
<th>Net Contribution</th>
</tr>
</thead>
<tbody>
<tr>
<td>San Pete Developments Ltd.</td>
<td>499 King St. E.</td>
<td>24-Mar-04</td>
<td>$ 650.00</td>
<td></td>
<td>$ 650.00</td>
</tr>
<tr>
<td>San Pete Developments Ltd.</td>
<td>499 King St. E.</td>
<td>5-Nov-03</td>
<td>100.00</td>
<td></td>
<td>100.00</td>
</tr>
<tr>
<td>Fengate Property Management</td>
<td>499 King St. E.</td>
<td>7-Oct-03</td>
<td>350.00</td>
<td></td>
<td>350.00</td>
</tr>
<tr>
<td>Fengate Property Management</td>
<td>499 King St. E.</td>
<td>25-Jun-03</td>
<td>400.00</td>
<td></td>
<td>400.00</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>$ 1,500.00</td>
</tr>
</tbody>
</table>

In addition to the similar addresses:
- The Directors in both companies are members of the Serafini family;
- Louis Serafini Sr. is a Director in both companies; and
- The companies hold separate bank accounts at the same bank branch.

We were unable to locate a response to Taylor Leibow from either Fengate Property Management Ltd. or San Pete Developments Ltd. However, Fengate Property Management Ltd. confirmed to us that the two companies were associated under the Income Tax Act.

Accordingly, there was an over contribution of $750 which we have concluded is an apparent contravention of the Act. However, our conclusion relied on information not otherwise provided to Di Ianni.
(12) Contributions from Spallacci & Sons Limited, Spallacci Construction Ltd. and 20 Place Inc.

<table>
<thead>
<tr>
<th>Company Name</th>
<th>Address</th>
<th>Date of Contribution</th>
<th>Amount of Contribution</th>
<th>Refunded Contribution</th>
<th>Net Contribution</th>
</tr>
</thead>
<tbody>
<tr>
<td>20 Place Inc</td>
<td>85 Lancing Dr., Unit Q</td>
<td>9-Nov-04</td>
<td>$ 200.00</td>
<td></td>
<td>$ 200.00</td>
</tr>
<tr>
<td>20 Place Inc.</td>
<td>85 Lancing Dr., Unit Q</td>
<td>7-Oct-03</td>
<td>500.00</td>
<td></td>
<td>500.00</td>
</tr>
<tr>
<td>Spallacci &amp; Sons Ltd.</td>
<td>85 Lancing Dr., Unit Q</td>
<td>7-Oct-03</td>
<td>375.00</td>
<td></td>
<td>375.00</td>
</tr>
<tr>
<td>Spallacci &amp; Sons Ltd.</td>
<td>85 Lancing Dr., Unit Q</td>
<td>5-Nov-03</td>
<td>100.00</td>
<td></td>
<td>100.00</td>
</tr>
<tr>
<td>Spallacci &amp; Sons Ltd.</td>
<td>85 Lancing Dr., Unit Q</td>
<td>9-Nov-04</td>
<td>275.00</td>
<td></td>
<td>275.00</td>
</tr>
<tr>
<td>Spallacci Construction Ltd.</td>
<td>85 Lancing Dr., Unit Q</td>
<td>9-Nov-04</td>
<td>275.00</td>
<td></td>
<td>275.00</td>
</tr>
<tr>
<td>Spallacci Construction Ltd.</td>
<td>85 Lancing Dr., Unit Q</td>
<td>7-Oct-03</td>
<td>375.00</td>
<td></td>
<td>375.00</td>
</tr>
<tr>
<td>Spallacci Construction Ltd.</td>
<td>85 Lancing Dr., Unit Q</td>
<td>5-Nov-03</td>
<td>100.00</td>
<td></td>
<td>100.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td><strong>$ 2,200.00</strong></td>
</tr>
</tbody>
</table>

All the companies operate their business from the same address. In addition:
- all hold bank accounts at the same bank branch;
- Frank Spallacci is a Director of all three companies; and
- Spallacci & Sons and Spallacci Construction share several common Directors.

Accountants for the three companies provided us the information we requested of them. Based on our review of the breakdown of the companies' shareholders, we are satisfied that the companies' shareholder composition is consistent with the companies not being associated.

Accordingly, we have concluded that there were no apparent contraventions of the Act in relation to these contributors.

(13) Contributions from companies at 2140 King St E, Hamilton

<table>
<thead>
<tr>
<th>Company Name</th>
<th>Address</th>
<th>Date of Contribution</th>
<th>Amount of Contribution</th>
<th>Refunded Contribution</th>
<th>Date of Refund</th>
<th>Net Contribution</th>
</tr>
</thead>
<tbody>
<tr>
<td>1540862 Ontario Inc.</td>
<td>2140 King St. E.</td>
<td>18-Nov-04</td>
<td>$ 300.00</td>
<td></td>
<td></td>
<td><strong>$ 300.00</strong></td>
</tr>
<tr>
<td>1116237 Ontario Inc.</td>
<td>2140 King St. E.</td>
<td>30-Sep-03</td>
<td>750.00</td>
<td></td>
<td></td>
<td>750.00</td>
</tr>
<tr>
<td>T. Valeri Construction Ltd.</td>
<td>2140 King St. E.</td>
<td>30-Sep-03</td>
<td>750.00</td>
<td></td>
<td></td>
<td>750.00</td>
</tr>
<tr>
<td>Doral Property Management Ltd.</td>
<td>2140A King St. E.</td>
<td>30-Jul-03</td>
<td>200.00</td>
<td>($ 200.00)</td>
<td>12-Aug-04</td>
<td>-</td>
</tr>
<tr>
<td>Luval Enterprises Ltd.</td>
<td>2140A King St. E.</td>
<td>30-Sep-03</td>
<td>750.00</td>
<td></td>
<td></td>
<td>750.00</td>
</tr>
<tr>
<td>Trival Investments</td>
<td>2140A King St. E.</td>
<td>30-Sep-03</td>
<td>750.00</td>
<td></td>
<td></td>
<td>750.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td></td>
<td><strong>$ 3,500.00</strong></td>
<td></td>
<td></td>
<td><strong>$ 3,300.00</strong></td>
</tr>
</tbody>
</table>
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The Directors for all of the companies appear to be Valeri family members.

Trival Investments advised Taylor Leibow that Trival Investments and Doral Property Management Ltd. were associated based on income tax filings. As a result, Di Ianni refunded the over-contribution of $200 related to those two corporations.

The companies provided us the information we requested of them. Based on our review of the companies’ shareholder registers and relevant sections of their 2003 T2 Corporation Income Tax Returns, we are satisfied that the companies’ shareholder composition and income tax reporting is consistent with the companies not being associated.

Accordingly, we have concluded that there were no apparent contraventions of the Act in relation to these contributors.

B. Contributions Made by Certain Councils, Associations and Labour Organizations

(1) Contributions from LIUNA Local 837, LIUNA Gardens Limited and LIUNA Station

<table>
<thead>
<tr>
<th>Company Name</th>
<th>Address</th>
<th>Date of Contribution</th>
<th>Amount of Contribution</th>
<th>Refunded Contribution</th>
<th>Date of Refund</th>
<th>Net Contribution</th>
</tr>
</thead>
<tbody>
<tr>
<td>Labourers’ Inter. Union of N. America, Local 837</td>
<td>44 Hughson St. S.</td>
<td>7-Oct-03</td>
<td>$500.00</td>
<td></td>
<td></td>
<td>$500.00</td>
</tr>
<tr>
<td>Labourers’ Inter. Union of N. America, Local 837</td>
<td>44 Hughson St. S.</td>
<td>7-Oct-03</td>
<td>250.00</td>
<td></td>
<td></td>
<td>250.00</td>
</tr>
<tr>
<td>Labourers’ Inter. Union of N. America</td>
<td>44 Hughson St. S.</td>
<td>26-Sep-03</td>
<td>250.00</td>
<td></td>
<td></td>
<td>250.00</td>
</tr>
<tr>
<td>Liuna Gardens Limited</td>
<td>526 Winona Rd. N.</td>
<td>7-Oct-03</td>
<td>250.00</td>
<td></td>
<td></td>
<td>250.00</td>
</tr>
<tr>
<td>Liuna Gardens Limited</td>
<td>526 Winona Rd. N.</td>
<td>14-May-04</td>
<td>250.00</td>
<td></td>
<td></td>
<td>250.00</td>
</tr>
<tr>
<td>Liuna Gardens Limited</td>
<td>526 Winona Rd. N.</td>
<td>17-Mar-04</td>
<td>250.00</td>
<td></td>
<td></td>
<td>250.00</td>
</tr>
<tr>
<td>Liuna Station</td>
<td>526 Winona Rd. N.</td>
<td>14-May-04</td>
<td>500.00</td>
<td>(500.00)</td>
<td>16-Aug-04</td>
<td>-</td>
</tr>
<tr>
<td>Liuna Station</td>
<td>526 Winona Rd. N.</td>
<td>7-Oct-03</td>
<td>250.00</td>
<td>(250.00)</td>
<td>10-Dec-04</td>
<td>-</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
<td>$2,500.00</td>
<td></td>
<td></td>
<td>$1,750.00</td>
</tr>
</tbody>
</table>

In response to Taylor Leibow, LIUNA Gardens Limited confirmed that it was associated with LIUNA Station. As a result, the Mayor’s Campaign refunded the $750 over-contribution to LIUNA Station.
LIUNA Local 837 ("Local 837") confirmed that it owns both LIUNA Gardens Limited and LIUNA Station. Local 837 is a local union that holds bargaining rights for employees in Ontario, and is thus entitled to contribute to municipal election campaigns. The Act is silent in relation to situations where a trade union owns corporations, in that the same relationship between two corporations would limit their combined contributions to $750.

Accordingly, we have concluded that there likely was no apparent contravention of the Act in relation to these contributions.

The financial statement filings listed two contributions from Labourers’ International Union of North America ("LIUNA") in the amounts of $250 and $500 and one contribution from Local 837 Political Account in the amount of $250. Copies of the contribution cheques disclosed that Local 837 contributed $250 and $500 and LIUNA contributed $250. Local 837 is a local union of LIUNA, the international parent of Local 837. The Act is silent in relation to situations where a local union and its parent union’s contributions together exceed $750.

Accordingly, we have concluded that there likely were no apparent contraventions of the Act in relation to these contributors but that there was an apparent reporting contravention as a contribution made by Local 837 was disclosed on the contributors list as a contribution from LIUNA.

(2) Contribution from LIUNA Ontario Provincial District Council

LIUNA Ontario Provincial District Council ("OPDC") contributed $750 to the Mayor’s campaign. Subsection 1(1) of the Municipal Elections Act, 1996 defines trade unions by reference to the Labour Relations Act, 1995 and the Canada Labour Code (Canada). The definition includes "a provincial, national or international trade union, a certified council of trade unions and a designated or certified employee bargaining agency" and "a central, regional or district labour council in Ontario."

The Act thus permits contributions from a district labour council in Ontario. The Act is silent in situations where a district labour council, affiliated local unions and international unions make contributions that together exceed $750.

Counsel for OPDC confirmed that they are a certified council of trade unions within the meaning of Sections 1 and 126 of the Labour Relations Act, 1995. Accordingly, we have concluded that there likely was no apparent contravention of the Act in relation to this contributor.

(3) Contribution from LIUNA Contractor’s Training Council

LIUNA Contractor’s Training Council ("Training Council") contributed $750 to the Mayor’s campaign. Subsection 1(1) of the Municipal Elections Act, 1996 defines trade unions by reference to the Labour Relations Act, 1995 and the Canada Labour Code (Canada). The
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Definition includes "a provincial, national or international trade union, a certified council of trade unions and a designated or certified employee bargaining agency" and "a central, regional or district labour council in Ontario."

The Act thus permits contributions from a district labour council in Ontario. The Act is silent in situations where a district labour council, affiliated local unions and international unions make contributions that together exceed $750.

We performed various public database searches and have not been able to locate any registration documents for the Training Council at their address listed on the contributors list. We conducted reverse address searches and general web searches for "LIUNA Contractors Training Council" and were unable to find any listings for the Training Council.

We did locate a registered corporation called "Canadian LIUNA – Contractors Training Council". However, the corporate profile report disclosed that the corporation was located in Ottawa, had failed to complete filings in 2002 and had filed a "Notice of Intent to Dissolve" on December 16, 2004.

LIUNA Canadian Tri-Fund is located at the same address as was listed on the contributors list for the Training Council. However, a message posted on the website for LIUNA Canadian Tri-Fund stated that the site is temporarily under construction and will be back on line June 30th. This message has been posted for the duration of the compliance audit. Accordingly, no information was available from the website related to a potential connection between the LIUNA Canadian Tri-Fund and the Training Council.

In a letter dated December 2, 2005, we requested confirmation from the Training Council as to whether it is a certified council in accordance with subsection 1(1) of the Municipal Elections Act, 1996.

On January 30, 2006 external counsel for the Training Council responded to our letter and informed us that they are unable to respond to our inquiry due to a perceived conflict of interest. The letter stated that the perceived conflict of interest related to "Laborers' International Union of North America, Central and Eastern Canada Regional Office, and its related entities," suggesting that the Training Council is related to these entities. The letter was copied to Mr. Cosmo Manella at LIUNA Canadian Tri-Fund but not to the named related entities.

Accordingly, we have been unable to confirm whether the Training Council is appropriately constituted and eligible to contribute to municipal election campaigns. We are not aware of any information provided to Di Ianni that would suggest that the Training Council was not entitled to contribute to the election campaign.
C. Contributions Made by Businesses/Entities That Did Not Appear to be Corporations

(1) Hand Association of Sewer, Watermain and Road Contractors ("Hand Association")

The Hand Association contributed $750 to the Mayor's campaign. This contributor is an Association whose corporate status was "Cancelled by Companies Branch" according to the Corporate Profile Report filed with the Ministry of Consumer and Business Services ("MCBS").

The company provided the information we requested of it, including the Incorporation Document, Financial Statements for the 2005 year-end, and the T2 Corporation Income Tax Return for the year ended January 2005. This documentation disclosed that the Hand Association continues to operate as a corporation, despite the apparent cancellation of its charter in 1994. The documentation indicated that the corporation is a non-profit organization. We confirmed that they are not a registered charity.

Accordingly, we have concluded that there was likely not an apparent contravention of the Act in relation to this contributor.

(2) Pat Decaria Hair Design

Pat Decaria Hair Design contributed $100 to Di Ianni's campaign. We were unable to confirm a business registration for Pat Decaria Hair Design through our search with MCBS.

The company provided the information we requested of it, including the Incorporation Document, its T2 Corporation Income Tax Return, and its CT23 Short-Form Corporations Tax and Annual Return. The documentation disclosed that Pat Decaria Hair Design operates through a corporation called Valtur Investments Limited.

Accordingly, we have concluded that there was no apparent contravention of the Act in relation to this contributor. However, there was a reporting contravention as the $100 contribution should have been listed on the final contributors list as Valtur Investments Limited. Our conclusion relied on information not otherwise provided to Di Ianni.

(3) Jerry's Man's Shop

Jerry's Man's Shop contributed $50 to Di Ianni's campaign. We were unable to confirm a business registration for Jerry's Man's Shop through our search with MCBS.

Mr. Mitchell Sherman provided documentation disclosing that Jerry's Man's Shop operates through a corporation called 1023959 Ontario Ltd.

Accordingly, we have concluded that there was no apparent contravention of the Act in relation to this contributor. However, there was a reporting contravention as the $50 contribution should
have been listed on the final contributors list as 1023959 Ontario Ltd. Our conclusion relied on information not otherwise provided to Di Ianni.

(4)  **Con Cast Pipe**

Con Cast Pipe contributed $750 to Di Ianni’s campaign. We were unable to confirm a business registration for Con Cast Pipe through our search with MCBS.

The business provided confirmation to us that it is a Limited Partnership. A Limited Partnership is not an incorporated business.

Accordingly, we have concluded that there was an apparent contravention of the Act in relation to this contributor. However, our conclusion relied on information not otherwise provided to Di Ianni.

(5)  **Parko Transportation**

Parko Transportation contributed $250 to Di Ianni’s campaign. We were unable to confirm a business registration for Parko Transportation through our search with MCBS.

The business provided confirmation to us that it is a Sole Proprietorship. A Sole Proprietorship is not an incorporated business.

Accordingly, we have concluded that there was an apparent contravention of the Act in relation to this contributor. However, our conclusion relied on information not otherwise provided to Di Ianni.

(6)  **Satellite Golf Centre**

Satellite Golf Centre contributed $750 to Di Ianni’s campaign. We were unable to confirm a business registration for Satellite Golf Centre through our search with MCBS.

Satellite Golf Centre was listed in the final financial statement filings as being re-classified due to a “clerical error”.

Mr. Roger Yachetti of Yachetti, Lanza and Restivo provided us with the information we requested. We were informed that Satellite Golf Centre was owned and operated by two corporations - Blackheath Developments Inc., whose sole shareholder was Roger Yachetti, and Future Homes Construction Limited, whose sole shareholder was Felice Bozzo. It was further explained that the contribution of $750 was made by the two corporations and should have been listed as such. The contribution of $750 was paid using a Satellite Golf Centre cheque.
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Satellite Golf Centre appears to be operated as a joint venture between two companies. Therefore:

- The contribution was from an unincorporated joint venture and is thus an apparent contravention of the Act; or

- The contribution was from the two corporations, in which case it represents an apparent reporting contravention, as the final financial statements captured the $750 contribution as a $250 contribution from Blackheath Developments Inc., a $250 contribution from Future Homes Construction Limited, and a $250 contribution from Vince Valeri.

Vince Valeri does not appear to have any ownership interest in these companies and recording the contribution as being received on his behalf is inconsistent with Mr. Yachetti’s comment to us that the contribution probably should have been listed under Blackheath Developments Inc. and Future Homes Construction Limited.

Our conclusion that the contribution was either an apparent contravention or an apparent reporting contravention relied on information not otherwise provided to Di Ianni.

D. Contribution Listed as “In-Kind”

As referenced in our October 25, 2005 report, we had an outstanding issue with the “in-kind” contribution made by Italo Ferrari through Fercan Developments Inc. ("Fercan"). The financial statements of Di Ianni indicated an “in-kind” contribution from Fercan Investments and Italo Ferrari, each for $750. The “in-kind” contribution from Fercan was for the rental of the office space in which Di Ianni had his campaign office. Fercan was the owner of the office building.

Italo Ferrari was Fercan’s General Manager and Di Ianni’s main contact at Fercan. Mr. Ferrari stated that his in-kind contribution was also for rent of the same space in a property owned by Fercan. However, Mr. Ferrari was not an owner/shareholder of Fercan. In discussions with Mr. Ferrari, he advised that he had personally reimbursed Fercan, through a deduction on his pay stub, for the $750 “in-kind” contribution listed as his contribution to Di Ianni’s campaign.

We were advised by the President of Fercan, Mr. Vince DeRosa, that Mr. Ferrari receives monthly bonus payments that vary considerably from one month to another. He advised in writing that a $750 deduction “was taken from his (Italo Ferrari’s) October 2003 bonus compensation”. Telephone calls to Fercan have led us to conclude that:

1. Fercan does not have any documents from October 2003 that disclose this deduction;
2. the amounts paid to Mr. Ferrari on a monthly basis vary, and a review of the monthly charges will not identify a bonus payment that is $750 lower than other months; and

Fercan Investments should have been captured in the financial statement as Fercan Developments Inc.
3. there are no annual bonus calculations otherwise disclosing the deduction of $750 from Mr. Ferrari’s payments.

The information provided to us is consistent with there not being an apparent contravention of the Act by this contributor. However, there is no available underlying documentation to support this position.

**Corrections Made in the Final Financial Statements**

There were 20 entries in the final financial statements that were changed from the original financial statements as a result of ‘clerical errors’ and 37 entries that were changed to reflect information contained on corporate cheques. Lorraine Carroll (“Carroll”), an election campaign volunteer and Special Project Coordinator for Mayor Di Ianni, advised us that the first financial statements were created during the campaign and compiled by various volunteers. She could not comment on why the information was not captured correctly on the first financial statements.

Prior to the final filing deadline, Carroll was asked to review the contributions and confirm the accuracy of the contributors list, in conjunction with the campaign’s accountants and other volunteers. She advised us that this review relied upon source documents (copies of the cheques received from contributors and any accompanying letters) to create the final contributors list. In doing so, she noted some discrepancies between the names listed on the list of contributors and the supporting documentation. In those cases, they relied upon the supporting documentation, thus resulting in changes to the final list of contributors as filed with the financial statements.

This explanation is consistent with our review of the financial records, our review of the changes made between the initial and final financial statements, and other procedures in relation to contributors.

**Other Matters**

Ken Froese received a telephone call inquiring as to whether we had investigated the possibility that a volunteer was being paid by the Liberal Party to work on Di Ianni’s campaign.

A volunteer on Di Ianni’s campaign was employed by the Liberal Party prior to and during Di Ianni’s 2003 campaign. However, our review disclosed that this individual volunteered for evenings and weekend for a portion of the campaign and worked full-time on the campaign for the last several weeks. Di Ianni’s campaign expenses included $5,000 paid to this individual and reported as a $5,000 fundraising expenses in the campaign’s financial statements.
Summary of our Findings

(1) Our Findings – Contributions Made By Apparent Associated Companies

We concluded that contributions made by eleven of the groups of potentially associated companies were not apparent contraventions of the Act. We concluded that $2,100 in contributions made by three of the groups of potentially associated companies were apparent contraventions of the Act. Of these three groups, the association had not been identified by Taylor Leibow in two cases and, in one case, the contributors responded to Taylor Leibow that they were not associated but they responded to us that they were associated.

We also identified a $750 contribution that was refunded by Di Ianni based on an inability to determine whether the company was associated with another contributor. We are satisfied that the companies' income tax reporting is consistent with the companies not being associated. Therefore there was no need to refund the $750 contribution.

We identified 3 apparent reporting contraventions as they related to companies listed on the contributors list by their business name and not the registered corporation.

(2) Our Findings - Contributions Made by Certain Councils, Associations and Labour Organizations

We did not identify any apparent contraventions of the Act involving contributions from labour-related councils, associations and organizations. However, we were unable to determine whether the LIUNA Contractor’s Training Council was appropriately constituted and eligible to contribute to municipal election campaigns.

We identified 1 reporting contravention that related to a contribution listed under the name of international labour organization instead of the local union.

(3) Our Findings - Contributions Made by Businesses/Entities That Did Not Appear to be Corporations

We identified two apparent contraventions of the Act, totaling $1,000, involving contributions from companies that were not incorporated. We identified two apparent reporting contraventions which were a result of companies that operate under a business name through an incorporated entity and were listed on the contributors list under their business name rather than under their corporate name. The remaining company is either an apparent contravention of the Act or an apparent reporting contravention.

(4) Our Findings - Contributions Listed as In-Kind

The information provided to us is consistent with there not being an apparent contravention of the Act by this contributor. However, there is no available underlying documentation to support this position.
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This Report is respectfully submitted by Ken Froese of LECG Canada Ltd. I was assisted in the compliance audit by Kelly Malcolm and Ashley Barr.

Yours truly,

[Signature]

Ken Froese, CA • IFA, CFI
Director
LECG Canada Limited.
LECG

Report for the City of Hamilton

Municipal Election Compliance Audit on
Campaign Finances of Candidate
Marvin Caplan

February 6, 2006
Background to the Compliance Audit

This compliance audit was the result of an appeal by an elector, Joanna Chapman ("Chapman"), regarding her request for a compliance audit under Section 81 of the Municipal Elections Act, 1996 (the "Act"). Justice Timothy Culver ordered the City of Hamilton to conduct an audit of the financial statements submitted by three candidates in the 2003 municipal election in Hamilton — John Best, Marvin Caplan, and Larry Di Ianni.

Ken Froese of LECG Canada Ltd. ("LECG") was retained to conduct a compliance audit in accordance with the Act. We are submitting separate reports for each of the three candidates.

Subsection 81(6) of the Act requires that the auditor "prepare a report outlining any apparent contravention by the candidate." This report contains our findings related to Marvin Caplan’s ("Caplan") campaign finances.

Approach to the Compliance Audit

The compliance audit is an audit of Caplan's financial statement for the period from June 30, 2003 to December 31, 2003, as submitted to the City of Hamilton on March 23, 2004, although our report also addresses events subsequent to the filing of that financial statement. The compliance audit addressed contributions to Caplan’s campaign as well as campaign expenses.

Subsection 70(7) of the Act states that candidates are only to accept contributions from persons or entities that are entitled to make contributions. The compliance audit was conducted on the basis of information reasonably available to Caplan when contributions were accepted, without assuming that he had the level of information potentially available from conducting a forensic investigation of contributions to his campaign.

What the Act Says About Contributions

The Act only permits contributions from an individual normally a resident in Ontario, a corporation that carries on business in Ontario, a trade union that holds bargaining rights for employees in Ontario, and the candidate and/or his or her spouse or same-sex partner (Subsection 70(3)).

The Act also states that contributions can only be made from money that belongs to the contributor (Subsection 74(1)). It does not address whether one cheque can be made on behalf of two or more individuals or entities. We have interpreted the Act to permit contributions on other’s behalf where there is supporting documentation, such as a letter, advising the candidate that the funds are being contributed on the other party’s behalf, using the other party’s funds.
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For example, where a candidate is advised that a contribution is being made on behalf of a number of individuals, each of whom is reimbursing the entity, or where the funds are being charged to their shareholder loan account, or a similar situation.

The Act permits contributions from associated corporations but only to the same contribution level as applies to a single corporation. Associated corporations are defined in Section 72 of the Act by reference to Section 256 of the Income Tax Act (Canada). The Income Tax Act relies on the concept of control, either directly or indirectly, by the same corporation, individual or related group of individuals. Control relates primarily to share ownership, not to the position an individual holds within a corporation – such as being an Officer and/or Director. Corporate searches identify Officers, Directors and Administrators of a corporation but do not identify shareholders. As a result, the ability to identify associated companies relies in large part on information only available from the contributor.

The Act, by identifying only corporations, does not permit contributions from income trusts, limited and general partnerships, unincorporated co-tenancies, and other legal but non-corporate entities through which business is conducted in Ontario.

What are Reasonable Expectations from a Candidate?

Our compliance audit considered what reasonable expectations should be for candidates in conducting their due diligence on campaign contributions. At the time contributions are received, a candidate can reasonably be expected to identify contributions that exceed the limits or are clearly from inappropriate sources, such as contributions from out-of-Provence businesses, charities, federal or provincial political parties, or similar sources.

Prior to finalizing a financial statement, a candidate can also reasonably be expected to identify multiple contributions that result in an over-contribution, contributions from different individuals or corporations sharing a common address, or other commonalities that suggest a possible association resulting in an over-contribution. Their responsibility is then to promptly refund over contributions. However, in our view the candidate cannot reasonably be expected to do more than enquire of the contributors as to whether they are associated or are otherwise not permitted to contribute to the candidate’s municipal election campaign.

Our Findings Related to Possible Ineligible Contributions

The City of Hamilton approved our request that the compliance audit be extended to address additional matters where the information provided by contributors either does not resolve the issue or the information raises further questions as to whether the contributions were appropriate.
Any apparent contraventions of the Act in these matters will be on the part of the contributors as opposed to the candidates. Two of these matters related to contributions made to Caplan’s campaign.

(1) The Hand Association of Sewer, Watermain and Road Contractors ("Hand Association")

The Hand Association contributed $750 to Caplan’s campaign. This contributor is an Association whose corporate status was “Cancelled by Companies Branch” according to the Corporate Profile Report filed with the Ministry of Consumer and Business Services ("MCBS").

The company provided the information we requested. Information provided to us included the Incorporation Document, Financial Statements for the 2005 year-end, and the T2 Corporation Income Tax Return for the year ended January 31, 2005. This documentation disclosed that the Hand Association continues to operate as a corporation, despite the apparent cancellation of its charter in 1994. The documentation indicated that the corporation is a non-profit organization. We confirmed that they are not a registered charity.

Accordingly, we have concluded that there was no apparent contravention of the Act in relation to this contributor.

(2) Carling Building Co ("Carling")

A $750 contribution was listed in Caplan’s financial statements as being from Carling, an unincorporated co-tenancy.

In a letter dated February 20, 2005 from Caplan to the Clerk, City of Hamilton, Caplan explained that he was misinformed about one of his campaign contributions. He advised the City that the Carling Co-Tenancy was an unincorporated group of entities and therefore the $750 contribution should have been reported as:

- Danna Construction Inc for $187.50
- EAF Holdings Limited for $187.50
- Ninco Construction Limited for $187.50
- Sunshine Construction Inc for $187.50

Attached to Caplan’s letter was one from Effort Trust Company dated January 12, 2005, detailing the Carling Co-Tenancy distribution.
Carling was also listed in the financial statements as having the same municipal address as Renimmob Properties Ltd.

Based on our review of the companies' shareholder registers and documents from their 2003 T2 Corporation Income Tax Returns, we are satisfied that the companies' shareholder composition and income tax reporting is consistent with the companies not being associated.

Accordingly, we have concluded that there were no apparent contraventions of the Act in relation to these contributors. However, there is a reporting contravention, as the financial statement should have listed the four corporations as the contributors and not Carling Building Co., as subsequently reported by Caplan in February 2005 in his letter to the Clerk, City of Hamilton.

Inability to Locate Financial Records

Caplan informed us that he could not locate the supporting documentation for his financial statement as he had moved and, in the process of moving, had misplaced his 2003 election files. We drafted and obtained an authorization from Caplan to obtain bank documentation directly from the bank he used for his campaign account. This documentation consisted of copies of the bank statements and cancelled cheques. We did not obtain copies of cheques from contributors or obtain copies of invoices and other supporting documentation for Caplan's financial statement filings.

According to section 69(1) of the Act:

"a candidate shall ensure that,

(f) records are kept of,

(1) The receipts issued for every contribution,
(2) The value of every contribution,
(3) Whether a contribution is in the form of money, goods or services, and
(4) The contributor's name and address;

(g) records are kept of every expense including receipts obtained for each expense;..."

Given Caplan's inability to produce the records to support his financial statement, we have concluded that this is an apparent contravention of the Act. We accept Caplan's explanation that the records were misplaced and not purposefully destroyed.
Our Findings – Apparent Reporting Contravention

A contribution for $200 was listed on Caplan’s financial statements as being from Turkstra Mazza. In discussing the matter with Caplan, he informed us that he believed the contribution was from an individual lawyer at the firm, Scott Snider. We confirmed that the contribution was from Mr. Snider personally and not from the law firm.

In our view this contribution was not a contravention of the Act. However, there is a reporting contravention, as the financial statements should have listed Scott Snider as the contributor and not Turkstra Mazza.

Our Findings Related to Other Potential Ineligible Contributions

Chapman, through court filings, letters to City Council and in discussions with LECG, identified contributors to the Caplan campaign who were potentially ineligible contributors or who were potentially associated with other contributors.

We determined that the following contributors were eligible to contribute to the Caplan campaign and thus do not represent apparent contraventions of the Act. Note, however, that in several instances these contributors were not accurately disclosed in the financial statements, thus giving the indication that they may not be eligible contributors.

- The financial statements disclosed a contribution from Arctic Experience Gallery, whereas the contribution was from Arctic Experience Inc., a registered corporation;
- The financial statements disclosed a contribution from Real Estate Board, whereas the contribution was from Realtors Association of Hamilton-Burlington, a registered corporation, and a new name for this organization that was registered on September 15, 2003;
- The financial statements disclosed a contribution from Girolama Holdiongs (sic) Inc., which we confirmed is a registered corporation (Girolama Holdings Inc.); and
- The financial statements disclosed a contribution from Jamestown Construction, whereas the contribution was from Jamestown Construction Limited, a registered corporation.
Our Findings – Campaign Expenses

We did not identify any apparent contraventions in relation to the expenses incurred by the Caplan campaign. However, we were unable to review the supporting receipts or invoices for expenditures.

There is an unexplained discrepancy between the contributions as listed in the financial statements, totaling $17,935.00, and the total deposited into Caplan’s campaign account, being $18,589.19. The discrepancy between the two amounts was $654.19. Without access to the source documentation we were unable to confirm the reason for the discrepancy.

Concluding Comments

We identified one apparent contravention of the Act as it relates to Caplan’s retention of his campaign finance records, two apparent reporting contraventions, and three instances where the corporate names listed in the financial statements were not accurately disclosed.

This Report is respectfully submitted by Ken Froese of LECG Canada Ltd. I was assisted in the compliance audit by Kelly Malcolm and Ashley Barr.

Yours truly

Ken Froese, CA•IFA, CFI
Director
LECG Canada Limited
Addendum to the Report for the City of Hamilton

Municipal Election Compliance Audit on Campaign Finances of Candidate John Best

February 6, 2006
LECG

Addendum to the Report for the City of Hamilton
Re: Municipal Election Compliance Audit
February 6, 2006

Background to the Compliance Audit

This compliance audit was the result of an appeal by an elector, Joanna Chapman ("Chapman"), regarding her request for a compliance audit under Section 81 of the Municipal Elections Act, 1996 (the "Act"). Justice Timothy Culver ordered the City of Hamilton to conduct an audit of the financial statements submitted by three candidates in the 2003 municipal election in Hamilton – John Best, Marvin Caplan and Larry Di Ianni.

Ken Froese of LECG Canada Ltd. ("LECG") was retained to conduct a compliance audit in accordance with the Act. Subsection 81(6) of the Act requires that the auditor "prepare a report outlining any apparent contravention by the candidate."

We issued a report dated October 25, 2005 that outlined our findings based on information reasonably available to John Best ("Best") when contributions were accepted, without assuming that he had the level of information potentially available from conducting a forensic investigation of contributions to his campaign.

That report proposed to the City of Hamilton that the compliance audit be extended to address additional matters where the information provided by contributors either did not resolve the issue or the information raised further questions as to whether the contributions were appropriate. We identified one such issue in relation to Best's campaign.

This report contains our findings from the second phase of the audit of the financial statements submitted by Best and should be read in conjunction with our Report dated October 25, 2005.

Contributions Made by Businesses/Entities that Did Not Appear to be Corporations

The Best campaign received contributions from Bell Manor Apartments, Erie Manor and Old Colony Properties Inc. as follows:

<table>
<thead>
<tr>
<th>Company Name</th>
<th>Address</th>
<th>Date of Contribution</th>
<th>Amount of Contribution</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bell Manor Apartments</td>
<td>c/o Effort Trust, 242 Main St E</td>
<td>10-Oct-03</td>
<td>250.00</td>
</tr>
<tr>
<td>Erie Manor</td>
<td>c/o Effort Trust, 242 Main St E</td>
<td>10-Oct-03</td>
<td>250.00</td>
</tr>
<tr>
<td>Old Colony Properties Inc.</td>
<td>c/o Effort Trust, 242 Main St E</td>
<td>10-Oct-03</td>
<td>250.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td></td>
<td><strong>$750.00</strong></td>
</tr>
</tbody>
</table>

Although Old Colony Properties Inc. is an incorporated entity, Bell Manor Apartments and Erie Manor did not appear to be registered corporations.

A clarification letter from Effort Trust dated September 22, 2005 stated that "Bell Manor is a co-tenancy (i.e. an unincorporated group) owned by Artiben Homes Limited and nine individuals; and Erie Manor is an operating account of Renimmob Properties Limited."
The Erie Manor contribution was thus from a bank account of a corporation and Erie Manor is an operating name used by Renimmob Properties Limited.

Effort Trust advised that the Bell Manor Apartments contribution was from a bank account of an unincorporated co-tenancy. Effort Trust issued a further clarification letter dated October 24, 2005 that disclosed that Bell Manor was 60% owned by Artben Homes Limited and 40% owned by nine individuals. The letter stated that the contribution had been allocated to each of the co-tenant’s accounts in the books and records of the co-tenancy.

The Accountants for Bell Manor Apartments provided us with the names of each of the owners of the co-tenancy and the allocated percentages and amounts for the $250 contribution.

Accordingly, we have concluded that there were no apparent contraventions of the Act in relation to these contributors. There were two apparent reporting contraventions since the contribution from Erie Manor should have been recorded on the contributors list as being from Renimmob Properties Limited and the contribution from Bell Manor Apartments should have been listed as contributions from each of the nine individuals and Artben Homes Limited. However, our conclusion relied on information not otherwise provided to Best prior to the filing of his financial statement.

Concluding Comments

We identified no apparent contravention of the Act and two apparent reporting contraventions for which the company names listed on the contributors list were not the companies/individuals from which the contributions were made. However, our conclusion relied on information not otherwise provided to Best.

This Report is respectfully submitted by Ken Froese of LECG Canada Ltd. I was assisted in the compliance audit by Kelly Malcolm and Ashley Barr.

Yours truly,

Ken Froese, CA•IFA, CFI
Director
LECG Canada Limited