



**INTEGRITY
COMMISSIONER REPORT
ACTION REQUIRED**

Report on Compliance with Council Decision CC 52.1

Date:	January 30, 2012
To:	City Council
From:	Integrity Commissioner
Wards:	All
Reference Number:	

SUMMARY

On August 27, 2010, City Council found that Councillor Rob Ford had violated Articles IV, VI, and VIII of the *Code of Conduct for Members of Council* (the “*Code of Conduct*”) by improperly soliciting donations from lobbyists, improperly using his influence to obtain donations and for improperly using City property and services to obtain donations to a charity he had set up in his name.

City Council applied Article XVIII of the *Code of Conduct* and required that Councillor Rob Ford reimburse the lobbyist and corporate donors from whom he had improperly obtained donations and provide confirmation of the reimbursement to the Integrity Commissioner.

Between August 31, 2010 and October 4, 2011, six requests were sent to Councillor (now Mayor) Rob Ford asking for confirmation that Council's order had been carried out. Also, on July 13, 14 and 15, 2011 the Integrity Commissioner's annual report to Council referred the outstanding matter to Council's attention. There was no confirmation provided in response.

On October 24, 2011, Mayor Ford wrote to this office and revealed that he had corresponded with the donors, and attached letters from three of the donors who had written in response to him to say that they did not wish to receive reimbursement for their donations.

On October 28, 2011, I wrote to Mayor Ford to confirm his obligation to obey Council's decision. I advised Mayor Ford that asking lobbyist-donors for the additional favour of

forgiving repayment could amount to a breach of the *Lobbyist Code of Conduct*. The Lobbyist Registrar was copied on this correspondence so that the lobbyists in question could receive advice about their obligations. The lobbyist donors were advised by the Lobbyist Registrar that they could not lobby Mayor Ford until he reimburses their donations. The Mayor was advised that the matter of his outstanding compliance would be brought to Council for direction.

Mayor Ford has not responded to the correspondence of October 28, 2011.

RECOMMENDATIONS

The Integrity Commissioner recommends that:

1. City Council adopt a recommendation that Mayor Ford provide proof of reimbursement as required by Council decision CC 52.1 to the Integrity Commissioner on or before March 6, 2012, and
2. City Council adopt the recommendation that if proof of reimbursement has not been made by March 6, 2012, that the Integrity Commissioner report back to Council.

Financial Impact

This report will have no financial impact on the City of Toronto.

DECISION HISTORY

In 2010, a member of the public filed a complaint pursuant to the *Code of Conduct Complaint Protocol for Members of Council* (the “*Complaint Protocol*”) and section 160 of the *City of Toronto Act, 2006* that Councillor Rob Ford violated the *Code of Conduct*.

An investigation was conducted into the complaint. At the conclusion of the investigation, a report was brought to Council in accordance with the *Complaint Protocol* and section 162(3) of the *City of Toronto Act, 2006* that Councillor Ford had violated the *Code of Conduct*.

Council adopted the following recommendations:

1. Councillor Rob Ford violated Articles IV, VI and VIII of the *Code of Conduct*;
2. Councillor Ford will reimburse the lobbyist and corporate donors in the amounts listed in the attachment to the report (August 12, 2010) from the Integrity Commissioner and provide confirmation of such reimbursement to the Integrity Commissioner.

Since that time, Mayor Ford has not provided proof of compliance with Council's decision. Six follow-up requests for this information were sent to Mayor Ford's office and the issue was flagged in the Integrity Commissioner annual report received by Council on July 12, 13 and 14, 2011.

ISSUE BACKGROUND

On August 27, 2010 Council adopted a report from the Integrity Commissioner which concluded that Councillor Rob Ford had breached Articles IV, VI and VIII of the *Code of Conduct* by soliciting donations to his private named foundation, including from lobbyists and corporate donors, using City funds.

The findings of that report can be summarized as follows:

Code of Conduct Article IV (Gifts and Benefits): City Council found Councillor Rob Ford breached the provisions of Article IV by soliciting and receiving donations from lobbyists, clients of lobbyists and a corporation engaged in bidding on competitive contracts from the City of Toronto. In some cases, donations were made within several months before or after lobbying activity took place with Councillor Rob Ford.

Code of Conduct Article VI (Use of City Property, Services and Other Resources): The investigation revealed that Councillor Rob Ford and his staff had worked on Rob Ford Football Foundation business using City resources. The Rob Ford Football Foundation is not a City of Toronto-sponsored initiative. City Council found that Mayor Ford improperly used City resources contrary to Article VI.

Code of Conduct Article VIII (Improper Use of Influence): Where a Councillor asks for donations to a private cause in his official capacity, this is an improper use of influence of office. City Council found that Councillor Rob Ford had improperly used his influence to seek and receive the donations, contrary to Article VIII.

On August 25, 26 and 27, 2010, Council ordered the repayment of the donations made by the lobbyist and corporate donors as attached to the Integrity Commissioner's Report to Council (attached as Appendix 2), and required that Councillor Rob Ford provide proof of his compliance to the Integrity Commissioner. This was not done. In July of 2011, the Mayor wrote to the lobbyist donors, which prompted some of them to write back to him, declining reimbursement. This was revealed by the Mayor on October 24, 2011. The Mayor was advised that Council's order stands and that his actions could lead the lobbyists to be in further breach of the *Lobbyist Code of Conduct*. I advised the Lobbyist Registrar of the matter to ensure that the lobbyists received advice on their obligations, and informed the Mayor of this step.

The Lobbyist Registrar confirmed that lobbyist donors must not lobby the Mayor until he has reimbursed their donations. Some lobbyist donors requested the Mayor to reimburse their donations. Some lobbyist donors expressed concern to the Lobbyist Registrar that if

the Mayor does not reimburse them, their ability to communicate with a key public office holder would be indefinitely restricted.

The integrity of City Council depends on elected officials to respect its decisions. Toronto City Council has established an ethics regime which includes a *Code of Conduct* that recognizes the public deserves "the highest standards of conduct from the members it elects to local government." (Preamble, *Code of Conduct*). If elected officials do not follow Council's decisions this could weaken public trust in the integrity of local government and set a poor example for others.

City Council made a decision 18 months ago; I recommend that Council fix a deadline of March 6, 2012 for compliance with CC 52.1.

CONTACT

Janet Leiper, Integrity Commissioner
Phone: 416-397-7770; Fax: 416-696-3615
Email: jleiper@toronto.ca

SIGNATURE

A handwritten signature in black ink, appearing to read 'J. Leiper', is centered within a light gray rectangular box.

Janet Leiper
Integrity Commissioner

ATTACHMENTS

Appendix 1: CC52.1 - Decision of City Council, dated August 25, 26 and 27, 2010
Appendix 2: Integrity Commissioner Report to Council dated August 12, 2010

Appendix I: CC52.1 - Decision of City Council, dated August 25, 26 and 27, 2010

CC52.1	ACTION	Adopted on Consent		Ward: All
--------	--------	--------------------	--	-----------

Report on Violation of Code of Conduct

City Council Decision

City Council on August 25, 26 and 27, 2010, adopted the following:

1. City Council adopt the finding that Councillor Rob Ford violated Articles IV, VI, and VIII of the *Code of Conduct*.
2. City Council adopt the recommendation that the following sanction permitted by Article XVIII of the *Code of Conduct* be imposed:
 1. Councillor Ford will reimburse the lobbyist and corporate donors in the amounts listed in the attachment to the report (August 12, 2010) from the Integrity Commissioner and provide confirmation of such reimbursement to the Integrity Commissioner.

Background Information (City Council)

(August 12, 2010) report from the Integrity Commissioner on Violation of Code of Conduct (<http://www.toronto.ca/legdocs/mmis/2010/cc/bqrd/backgroundfile-33227.pdf>)

Appendix 2:
Integrity Commissioner Report on Violation of Code of Conduct – August 12, 2010



**INTEGRITY
COMMISSIONER REPORT
ACTION REQUIRED**

Report on Violation of Code of Conduct

Date:	August 12, 2010
To:	City Council
From:	Integrity Commissioner
Wards:	All
Reference Number:	

SUMMARY

Councillor Rob Ford used the City of Toronto logo, his status as a City Councillor, and City of Toronto resources to solicit funds for a private football foundation he created in his name. Donors to the Councillor’s foundation included lobbyists, clients of lobbyists and a corporation which does business with the City of Toronto. I concluded that there had been a breach of Articles IV (Gifts and Benefits), VI (Use of City Property, Services and Other Resources) and VIII (Improper Use of Influence) of the *Code of Conduct for Members of Council* (“*The Code of Conduct*”).

I recommend that Council impose a sanction that will appropriately address the breaches of the *Code of Conduct*.

RECOMMENDATIONS

The Integrity Commissioner recommends that:

3. City Council adopt the finding that Councillor Rob Ford violated Articles IV, VI, and VIII of the *Code of Conduct*.
4. City Council adopt the recommendation that the following sanction permitted by Article XVIII of the *Code of Conduct* be imposed:

1. Councillor Ford will reimburse the lobbyist and corporate donors in the amounts listed in the attachment to this report and provide confirmation of such reimbursement to the Integrity Commissioner.

Financial Impact

This report will have no financial impact on the City of Toronto. It may have a financial impact on Councillor Rob Ford.

DECISION HISTORY

A member of the public filed a complaint pursuant to the *Code of Conduct Complaint Protocol (the "Complaint Protocol")* and section 160 of the *City of Toronto Act, 2006* that Councillor Rob Ford violated the *Code of Conduct* by soliciting donations to his private foundation using his City Council letterhead.

An investigation was conducted into the complaint. As a result of the information obtained during that investigation, I concluded that Councillor Ford violated the *Code of Conduct*. As a result, a public report to Council is required by the *Code of Conduct Complaint Protocol (the "Complaint Protocol")* and section 162(3) of the *City of Toronto Act, 2006*.

ISSUE BACKGROUND

Investigation

A formal complaint was filed on May 4, 2010 after a Toronto resident received a letter mailed from Councillor Rob Ford seeking donations to the "Rob Ford Football Foundation" ("the Football Foundation"). The City of Toronto logo was on the envelope and the letter. The letter was printed on Councillor Ford's letterhead and included a watermarked drawing of Etobicoke North, Ward 2, the area represented by Councillor Ford. On the back of the envelope there was an embossed gold seal with the City of Toronto logo and, "Rob Ford Etobicoke North Councillor" stamped into the seal. The letter was postmarked March 19, 2010.

The complainant had not had any prior communications with Councillor Ford, did not reside in his ward, and did not know how he had obtained a home address. The complainant became aware that Councillor Ford announced his candidacy on March 25, 2010 and wrote, "This left me uncomfortable. While it was not stated in words, there was a clear sense of an implied suggestion that a donation to his charity might serve me well should he be elected Mayor."

I reviewed the material provided by the Complainant, viewed Councillor Ford's councillor website and his campaign website. Councillor Ford was given an opportunity to reply to the complainant in writing, and his response was provided to the complainant, in accordance with the *Complaint Protocol*. I met with Councillor Ford and his assistant to request information about the use of the office, request documentation about the Football Foundation and discuss the subject matter of the complaint.

I interviewed staff members from the Toronto Community Foundation (the "TCF"), the charitable organization which administered the Football Foundation. The TCF provided records relating to the Football Foundation with Councillor Ford's consent. I met with another Councillor who had received expressions of concern from other person who received mailings requesting that they donate to the Football Foundation. I conducted a search of the Lobbyist Register to determine if any of the donors to the Foundation were registered lobbyists or clients of lobbyists. I met with staff at the Lobbyist-Registrar's office to review the on-line search system and to ensure I was interpreting the information contained on the Registry properly. I conducted a search of the City of Toronto website to establish whether a given corporation was involved in bidding and receiving contracts from the City of Toronto and confirmed this information with City staff. Finally, I met with a lobbyist who had donated to Councillor Ford's Football Foundation and obtained additional information about the requests for donations that firm had received as well as confirmation of dates on which Councillor Ford his staff were lobbied.

I reviewed prior advice that was given to Councillor Ford in 2009-2010 about the use of the City logo and his Councillor letterhead to pursue private fundraising. I met with Councillor Ford, twice in person and twice by telephone, to obtain information, to review my findings with him and to provide him with opportunities to comment on the findings. A number of written communications were provided to Councillor Ford either directly, or through his advisors, to provide him with detail about the findings in this report and to explain the rationale behind the findings.

Findings

The Fundraising Letter

The letter sent to the complainant was styled, "Dear Friends." It described the work of the Rob Ford Football Foundation in starting football programs by using donations to fund the purchase of football equipment by Toronto secondary schools. The letter described how donations could be made by sending money to the Toronto Community Foundation (TCF), a charitable organization which administers various foundations and issues tax receipts to donors on behalf of those foundations. In the fundraising letter, Councillor Ford wrote that he would be carefully selecting the schools to receive funding as funds are donated. As described above, the letter was sent under Councillor Ford's letterhead and included the City of Toronto logo and his City Hall return address.

The Response from Councillor Ford

In his letter of response to the complaint, Councillor Ford wrote, “I do not understand why it would be inappropriate to solicit funds for an arms-length charitable cause using my regular employment letterhead.” He wrote that the complaint had no basis in policy or law and he expressed concern that a “worthy cause would be undermined by an inconsequential complaint about the use of letterhead.”

Based upon Councillor Ford’s assertion that there was “no basis in policy or law” to prevent him from fundraising in this way, I provided him with an opportunity to review his response before forwarding it to the complainant. I did this because Councillor Ford had recently received advice from my office that he should not fundraise in this way. This advice was given in December, 2009 and again in February 2010, after two prior complaints were made by other people who received Football Foundation letters from the Councillor.

Councillor Ford was provided with copies of the prior advice and time to reflect on the advice before completing his response to the complainant. Councillor Ford chose not to revise his response. The complainant received this response and was given an opportunity to comment. No additional facts were added by the complainant at this stage.

The two prior informal resolution processes would not normally be brought to Council, however in this case, they became relevant to the background, the findings and the recommendations as to sanction. These are described below.

Prior Informal Complaint #1: December 2009

On November 11, 2009, a member of the public provided a copy of a mailing received from Councillor Ford which contained the same “Dear Friends” letter requesting donations to the Football Foundation, along with a copy of the news article, a business card from Rob Ford, Councillor, a fridge magnet for Rob Ford Etobicoke North Councillor and a promotional sticker for Deco Labels and Tags. The citizen agreed that the complaint could be addressed on an informal basis.

Councillor Ford responded to the complaint. He agreed he should not have included the Deco sticker in the mailing. He said that the mailing did not use City property because he pays for all office supplies and postage himself. He wrote that his fundraising falls within the business of the City of Toronto because it assists underprivileged residents. Councillor Ford also wrote that the TCF had approved the content of his fundraising letter.

I spoke to Councillor Ford about his response and explained to him that it was not up to the TCF to decide if he could use Councillor letterhead, because this relates to the City of Toronto *Code of Conduct* over which the TCF has no jurisdiction. I offered to treat the matter as a “request for advice” and provide him with my advice in writing to try and resolve the matter on an informal basis. Councillor Ford agreed with this approach.

On December 10, 2009, I provided written advice to Councillor Ford confirming that he is required to separate his Councillor work from his private fund-raising work. I addressed his rationale that he was doing city business by explaining that his Football Foundation was not officially sanctioned City of Toronto business, in contrast to internal fundraising drives such as the United Way campaign, which is a corporately sponsored fundraising effort at the City of Toronto. This advice noted that by “asking citizens for money for a personal cause on Councillor letterhead, there is a risk that you could be seen to be using your influence as a Councillor to raise money for your private foundation.” Councillor Ford was advised that lobbyists or developers who might want to seek his support in his role as Councillor might feel that they could do that by making donations to his named foundation. Finally, I identified the City of Toronto logo as being property of the City of Toronto that is subject to the Use of Corporate Logo, Donations and Sponsorships policy to be used only for officially sanctioned City of Toronto business.

The written advice concluded with a recommendation that Councillor Ford refrain from using his letterhead in this way in the future. Councillor Ford was invited to discuss any further questions about his mailings that could involve *Code of Conduct* concerns, in advance. The complainant was told that advice had been given and Councillor Ford wrote a letter of apology addressing part of the complaint. The matter was closed and no formal complaint was pursued.

Prior Informal Complaint #2: February 2010

On February 22, 2010, a Councillor provided an envelope and a Football Foundation fundraising letter from Councillor Ford which had been received some time ago by a family member. The postmark was unclear, and it seemed possible that this letter had gone out in the fall, perhaps before the December advice had been provided to Councillor Ford. I suggested to Councillor Ford and the complaining Councillor that the matter might be addressed informally by way of confirming the original piece of advice about the Football Foundation fundraising. This appeared to be agreeable to both Councillors.

On February 25, 2010, I confirmed my prior advice to Councillor Ford that he cannot use his Councillor status for private fundraising. During that conversation, Councillor Ford was concerned about having to print new stationery for his fundraising. I repeated my advice and the problem with him combining fundraising for his personal Football Foundation with his Councillor status. Councillor Ford asked if I would agree to meet with him and a representative from the TCF. I agreed to meet if he was able to obtain a date from the TCF, however after some initial attempts by his office to arrange such a

meeting, no date was provided and the meeting did not take place. I did not change the advice given to Councillor Ford nor make it contingent on having such a meeting.

With Councillor Ford's permission, I advised the Councillor who had complained about the fundraising letter of the advice which had been provided to Councillor Ford. This was satisfactory to the Councillor and the matter was closed without a formal complaint.

At no time after receiving either piece of advice did Councillor Ford say to either complainant through me that he intended to ignore the advice provided and that he would continue with his practices. He appeared to have accepted the advice, although reluctantly.

Information Provided by Councillor Ford During the Investigation

Councillor Ford said that he established the Football Foundation to continue his personal efforts to help out schools that cannot afford to purchase football equipment. He and a member of his office staff mailed out requests for donations on his councillor letterhead and stationery, and added the embossed seal to the envelopes. When donations were made, they were received by the TCF which mailed out tax receipts. Councillor Ford was advised by the TCF when donations are made, including the name and address of each donor. Councillor Ford said that his practice was to call the donors and thank them for their donation. Postage, stationery, photocopying and envelopes are paid for by Councillor Ford. Councillor Ford acknowledged he used his City staff's paid time to send out mailings. Councillor Ford also agreed that the Football Foundation is his initiative, and is not City of Toronto business.

Councillor Ford was asked for his donation mailing lists. He said that his office does not keep that information. Mailings went out when he obtained addresses from various business cards he received from people or from e-mail correspondence. He was unable to confirm who he had asked for donations, how many mailings had been sent out since the time of the last piece of advice or even whether people were solicited on multiple occasions. He did not check to see whether he solicited or received donations from lobbyists, clients of lobbyists or people appointed by Council to sit on City of Toronto boards or agencies. He said that he did not keep all of the business cards used to send out the letters of request for donations. In addition to mailings, Councillor Ford confirmed that his website which describes his work as a Councillor for his constituents has a link to the fundraising letter of the kind received by the complainant, to news coverage of the Football Foundation and a link to TCF for online donations. The cost of this website is not charged to the city.

Councillor Ford acknowledged that the Football Foundation is described on his "Rob Ford for Mayor 2010" website. That site claimed that the Football Foundation has "raised more than \$100,000 to purchase equipment and establish football programs at high schools across Toronto." His campaign literature described the work of the Football

Foundation and claimed to have benefitted eight different named secondary schools in Toronto through the work of the Football Foundation.

Councillor Ford said that he used his Councillor letterhead so that he can save the money that would be spent in printing separate Football Foundation letterhead. During the investigation he repeated that the TCF had approved his fundraising letters and that he wanted a ruling from them on whether this is appropriate.

Information Received from the Toronto Community Foundation (TCF)

Two senior officials with the TCF provided information and material about the Football Foundation. The TCF was established in 1981 to manage and administer foundations and endowments for citizens and organizations. Their services to donors include “back office” services and financial stewardship of funds on behalf of over 300 endowment funds. The TCF is a corporation without share capital, incorporated under the *Corporations Act* (Ontario) and registered as a charity under the *Income Tax Act* (Canada.) It is governed by an independent Board of Directors. It is not part of the corporation of the City of Toronto.

The Football Foundation was established on March 31, 2008 after an agreement dated March 13, 2008 was entered into between Rob Ford and TCF. Under the terms of that agreement, TCF received funds on behalf of the Football Foundation, issued tax receipts, sent thank-you letters to donors, and distributed funds to school boards in accordance with the direction of Rob Ford. As donations were made, Councillor Ford was provided with information that included the identity and address of the donors. These letters were sent to his City Hall office. In addition, reports were provided to him detailing the annual financial activity in the fund.

The staff person at TCF who assisted Councillor Ford with setting up the Football Foundation is no longer working there. I described Councillor Ford’s assertion to me that “the content of the letter [he] sent out was approved by the Toronto Community Foundation.” One of the senior staff with whom I met at the TCF confirmed that the file contains no information or note about the TCF approving Councillor Ford’s use of his City Councillor letter head to fundraise. The senior staff member said that TCF would have no right or interest in giving such an approval. The President of the TCF confirmed that the TCF is in no position to have told Councillor Ford whether he could use City of Toronto Councillor letterhead to fundraise for the Football Foundation. The President said he expected the Councillor to know his own guidelines.

Councillor Ford received information from the TCF about how much money had been donated by corporate donors to the Football Foundation. Although he also asked for this information for individuals, the TCF refused to provide that information for privacy reasons. I was advised during the investigation that the TCF recently re-evaluated their policy and no longer provides any donation amount information to fund holders.

TCF records confirm that from the time it was created in March of 2008 to June 30, 2010, the Football Foundation has granted a total of \$37,294.68 to the Toronto District School Board for the benefit of four different high schools. In contrast to the on-line claim made on the Councillor's election website, the information provided establishes that at no time has the Football Foundation had over \$100,000.00 available for grants. As of June 29, 2010, the Foundation had raised just under \$40,000.00 since its creation. Councillor Ford was asked if he had checked his claim against the annual financial statements provided to him by the TFC. He had not done so and told me that he discarded those documents. Councillor Ford said he had included amounts he had personally provided before setting up the Football Foundation and that he was willing to change the claim on his website to make it accurate.

The TCF provided copies of e mail correspondence between Councillor Ford's staff and TCF staff during the period from 2009 through to 2010. These e mails indicate that his staff acted on his behalf in confirming amounts available in the fund from time to time, issuing instructions to make grants in favour of particular schools and forwarding queries on behalf of Councillor Ford to the TCF. The records of these communications indicate that his City Hall staff assistant was managing the work of the Football Foundation from his City Hall office during business hours.

Corporate and Lobbyist Donors to the Football Foundation

During our initial discussions, a hypothetical example was given to Councillor Ford of a lobbyist perhaps believing that a donation to the foundation could lead to a favourable outcome on behalf of a client. Councillor Ford declared that he cannot be "bought" and that people know that about him, particularly because of his wealth. Councillor Ford was not able to agree that such a request could be perceived as a use of influence if it was received by a lobbyist, or an organization seeking to do business with the city, or by someone like the complainant who felt uncomfortable receiving a direct appeal for funding from a Councillor/ candidate.

The material supplied by TCF and by Councillor Ford revealed 26 corporate/trade association donors to the Football Foundation between August 31, 2009 and May 7, 2010. A search was conducted of the Lobbyist Registry which revealed that among the donors to the Football Foundation, eleven firms or clients of firms were engaged in or about to be engaged in lobbying public office holders at the City of Toronto in the same year in which they made donations.

When I first provided him with the information that a lobbyist firm had made donations to his Football Foundation, Councillor Ford denied knowing they were lobbyists, although he did admit he knew two of the individuals at the firm. I asked him if he had been lobbied after he had received a donation from them. He responded that it was "ridiculous to say something like that." Neither he, nor his assistant responded to requests to confirm whether they had met with the lobbying firm. Later investigation revealed that

in September of 2009, the firm had donated to the Football Foundation in response to one of Councillor Ford's fundraising letters. Members of that firm had lobbied Councillor Ford on behalf of three different clients in the fall of 2009 and winter of 2010. A second fundraising letter was received by this firm after the first donation, but it was discarded and no further donation was made by the firm. That firm was cooperative and timely in providing this information.

Additional searches of the lobbyist registry revealed that of the 11 lobbyists/clients of lobbyists who had donated to the Football Foundation, seven had either lobbied or had registered an intention to lobby Councillor Ford in 2009-2010. Lobbyist donations were made to the Football Foundation in 2009-2010 in the amount of \$3150.00. Details of these findings were provided to Councillor Ford. A summary of lobbyist donation information is attached at Table 1 of Appendix 1 to this report.

Other examples of parallel lobbying and donation activity include:

1. A firm contributed financially to the lobbying activities of two different lobbyists who registered to lobby on behalf of a trade association by meeting with Councillor Ford (and other Councillors) "before July 2010." The firm donated \$250.00 to the Football Foundation in May of 2010.
2. A trade association registered four in-house lobbyists to lobby Councillor Ford "before July 2010" by telephone and e-mail. That association donated \$50.00 to the Football Foundation in March of 2010.
3. A lobbyist registered to lobby Councillor Ford "before July 2010" in writing. The lobbyist donated \$200.00 to the Football Foundation in September of 2009. The lobbyist's client donated \$400.00 to the Football Foundation in November of 2009.
4. A lobbyist registered to lobby Councillor Ford on behalf of a corporate client proposing to start in the fall of 2009 and to have a meeting prior to July of 2010. The client had donated \$50.00 to the Football Foundation in August of 2009.

In addition, one corporate donor to the Football Foundation has been the recipient of multi-million dollar contracts spanning 2009-2011, awarded by the City of Toronto through its competitive bid process. That firm contributed \$400.00 to the Football Foundation on September 14, 2009. A summary of corporate donation information is attached at Table 2 of Appendix 1 to this report.

Other Letter Recipients

During the investigation I was approached by another Councillor who had been told by four people that they had received fundraising letters from Councillor Ford asking for

money for the Football Foundation. I met with the Councillor who identified the “Dear Friends” letter as being the letter received by the citizens who had raised this with him. At least one of the recipients was described as being “very worried” about being asked to donate in this fashion, but reluctant to complain because of a position within an organization affiliated with the City of Toronto.

Analysis and Findings

I found that Councillor Ford breached three provisions of the *Code of Conduct*. Each of the three will be discussed in turn. The full text of each Article is attached at Appendix 2.

Article V: Gifts and Benefits

Article V provides that: “No member shall accept a fee, advance, gift or personal benefit that is connected directly or indirectly with the performance of his or her duties of office, unless permitted by the exceptions listed below.”

In the case of lobbyists, Article V has only one exception to the prohibition against gifts or benefits: a “political contribution otherwise reported by law, in the case of members running for office.” Political contributions are subject to limits and are published. In addition, the City of Toronto by-law limits election campaign contributions to individuals and does not permit campaign donations from corporations or trade unions.

The Lobbying By-law (Chapter 140, Municipal Code) has a companion requirement to the gift prohibition in the *Code of Conduct for Members of Council*. The Lobbyist Code of Conduct, found in Section 440-42A of the Municipal Code requires:

Lobbyists shall not undertake to lobby in a form or manner that includes offering, providing or bestowing entertainment, gifts, meals, trips or **favours of any kind**” (Emphasis added)

The provisions of the Members *Code of Conduct* and the *Lobbying By-law* exist to create a system of lobbying in Toronto which is transparent and conducted with integrity. In publishing her findings in the Toronto Leasing Inquiry, Commissioner Bellamy wrote, “When public office holders, elected or not, accept meals, gifts, entertainment and other favours from those attempting to influence them, they corrode public trust.”¹ In that report, the Commissioner described a list of problematic corporate benefits in the form of food, entertainment, trips and donations to charitable events sponsored by public office holders.²

¹ *Toronto Computer Leasing Inquiry; Toronto External Contracts Inquiry*, 2005, City of Toronto, Volume 1 Facts and Findings, page 411.

² *Toronto Computer Leasing Inquiry; Toronto External Contracts Inquiry*, 2005, City of Toronto, Volume 4 Executive Summary, page 30.

In this case, Councillor Ford solicited and received donations from lobbyists to his named private foundation, on City of Toronto official letterhead from his office at City Hall where he conducts his councillor business. Lobbyists and their clients made donations in amounts ranging from \$50.00 to \$500.00. One lobbyist firm which donated \$100.00 in September of 2009, received a second fundraising letter later in the year. Associates of that firm were engaged in lobbying Councillor Ford during that year, on more than one matter on behalf of their clients. In return for these donations from lobbyists, Councillor Ford received the benefit of additional funding to his Foundation, which he used to enhance his reputation both as a Councillor via his website and as a candidate by including this information in his campaign materials. There was a lack of rigour to record-keeping by Councillor Ford that included deleting or discarding the source material used to create the mailing lists, and the details of financial reporting from TFC. There was a discrepancy between his published claim that the Foundation had raised over \$100,000.00 and the financial reports from the TFC which confirmed that the Foundation had collected and granted less than \$40,000.00.

Councillor Ford received information about each lobbyist-donor and asked for the amounts donated by these organizations and firms. His practice was to call all donors to personally thank them for their donation. This was not an “arms-length” arrangement. He and his City Hall office staff played an active role in soliciting donations, receiving information and reports on donations, and Councillor Ford personally called to acknowledge donations. In seeking and accepting donations in this way and from these donors he combined the roles of public office holder and private citizen. It would be understandable if those who made donations concluded that they were “doing the Councillor a favour” by making a donation to his foundation. In some cases, donations were made within several months before or after lobbying activity took place with Councillor Ford. One donor received a second request after making a donation. These facts create a reasonable impression of a link between the making of the donation and the performance of Councillor Ford’s duties. As such, these donations were benefits to Councillor Ford indirectly linked to his performance of his duties in office.

In addition, the list of donors included a corporation which has received multi-million dollar contracts from the City of Toronto, including in 2009-2011. I conclude that this donation from a corporation which does business with the City of Toronto, in response to a request from Councillor Ford, is also an improper benefit to a Councillor.

In this case, the Councillor identified the favour that he wanted. He was asking lobbyists and a corporation in business with the City of Toronto to donate to his charity. Councillor Ford made the decision as to who he would ask for donations, and these donations benefited both the schools who received grants, but also Councillor Ford. Just as it is improper for lobbyists to offer or provide gifts, benefits or favours, it is equally as improper for public office holders to ask for or suggest ways for lobbyists to provide gifts, benefits or favours.

Accordingly, I find that in soliciting and receiving donations from lobbyists, clients of lobbyists and a corporation engaged in bidding on competitive contracts from the City of Toronto, Councillor Ford breached the provisions of Article V of the *Code of Conduct*.

Article VI-Use of City Property, Services and Other Resources

Article VI of the *Code of Conduct* provides:

No member of Council should use, or permit the use of City land, facilities, equipment, supplies, services, staff or other resources (for example, City-owned materials, websites, Council transportation delivery services and member of Council expense budgets) for activities other than the business of the Corporation. Nor should any member obtain personal financial gain from the use or sale of City-developed intellectual property (for example, inventions, creative writings and drawings), computer programs, technical innovations, or other items capable of being patented, since all such property remains exclusively that of the City.

In the period under review, I was provided with copies of documents, letters and electronic mail as well as information from Councillor Ford and his staff which confirmed that he and his staff had administered the work of the Rob Ford Football Foundation out of his office at City Hall. Neither the TCF nor the Rob Ford Football Foundation is a City of Toronto sponsored initiative. Therefore, I conclude that Councillor Ford improperly used City resources in that his staff salaries are paid for by the City of Toronto and the office is provided to him as a resource to Councillors.

In addition, the use of the City of Toronto logo, which was reproduced on the fundraising letters, is part of the intellectual property of the City and only to be used for City business. The former Integrity Commissioner reported on the private use of the City logo by Councillor Ford on December 11, 12 and 13, 2007. Council adopted the finding that using the City logo for purposes other than City business was a violation of Article VI of the *Code of Conduct*. A copy of the report and the decision by City Council is attached as Appendix 3.

Article VIII-Improper Use of Influence

Article VIII provides that “No member of Council shall use the influence of her or his office for any purpose other than for the exercise of her or his official duties.” The position of City Councillor carries both power and responsibility. The reality of public office is that Councillors have influence. This reality means that Councillors are responsible for acting with integrity and being seen to be acting with integrity.

Where a Councillor asks someone to give money to a personal cause in his or her role as Councillor and underlines that role by putting the request in an official format, that is, on Councillor letterhead, this is a use of the influence of office for a cause that is not part of the Councillor’s public duties. Councillor Ford described this as an “inconsequential

complaint about the use of letterhead” but the complaint is not just about the letterhead, the envelope or the embossed gold seal imprinted with the Councillor’s name. The complaint is about the role of the Councillor which is symbolized by all of these formal items. Councillors make significant decisions by voting in Council and committees, in having access to fellow Councillors, to the Toronto Public Service and to the public at large through the media. Councillors make decisions, set policy and determine how taxpayers’ money will be spent. A Councillor’s correspondence with the public is a reminder of that role and it is in that context that the use of the letterhead must be measured.

The problem with using one’s influence, even for a good cause, is that such a request can be received in many different ways. The recipient may wish to do business with the city, lobby the city, or be appointed by the city. Alternatively, the individual may work for the city or appear as an advocate for other citizens. The recipient may have made a deputation before committees or community councils. The recipient could take such a request as a way to gain an advantage by making a donation. Alternatively, as in this case, recipients could feel uncomfortable for declining to donate. The multiple reminders of the status of the Councillor on the letter and the envelope could reasonably lead a recipient to ask, “Why is Councillor Ford asking for this money? What happens if I don’t contribute to his favoured cause? Will he look more favourably upon my application/deputation/requests for meetings? Is he keeping track of who is asked and who does and doesn’t help fund his personal cause? This was the source of discomfort, not only by the complainant, but by others who had brought this issue forward in the informal processes, and during the investigation.

In the case of registered lobbyists, requests for donations from a Councillor could lead them to the unsavoury choice between turning down a direct request to help out the Councillor with his personal fundraising campaign where the lobbyist may later be seeking support on behalf of a client, or making a donation as a favour to the Councillor and potentially breaching his/her own *Code of Conduct*. Chapter 140 of the Municipal Code, section 38B requires lobbyists to “observe and comply with the highest ethical and professional standards” and as noted above Section 440-42A of the By-law prohibits lobbying that includes “providing favours of any kind.” Finally, section 140-45 requires that lobbyists avoid “both the deed and the appearance of impropriety.” These provisions are enforceable by way of prosecution and fines for up to \$25,000.00 for a first conviction and up to \$100,000.00 for a subsequent conviction.

One of the overarching principles in the *Code of Conduct* is that: “Members of Council are expected to perform their duties in office and arrange their private affairs in a manner that promotes public confidence and will bear close public scrutiny.” Where a member’s private affairs become intermingled with his/her public role, this can send a mixed message to others. The recipients of these requests may feel driven to act either because of unspoken hope of advantage, fear of reprisal or merely confusion about why the Councillor is writing about a private matter from the public office.

In fairness to Councillor Ford, it is common for a person who has blurred their roles to have difficulty “seeing” the problem at the beginning. It often takes others to point out the problem, especially in a case where the goal (fundraising for football programs for youth) is laudable. The validity of the charitable cause is not the point. The more attractive the cause or charity, the greater the danger that other important questions will be overlooked, including who is being asked to donate, how are they being asked, who is doing the asking, and is it reasonable to conclude that a person being asked for money will take into account the position of the person asking for the donation. Where there is an element of personal advantage (in this case, the publication of the Councillor’s good works, even beyond what they had actually achieved), it is important not to let the fact that it is “all for a good cause” justify using improper methods for financing that cause. People who are in positions of power and influence must make sure their private fundraising does not rely on the metaphorical “muscle” of perceived or actual influence in obtaining donations.

The danger of inviting lobbyists to donate to a Councillor was pointed out to Councillor Ford in writing on December 10, 2009. On November 24, 2009, his Football Foundation received donations from two lobbyists totalling \$450.00. Councillor Ford was in a position to inquire and confirm whether or not he could accept such donations and change his practices. He did not do so.

As a result of all of the above, I find that Councillor Ford also breached Article VIII (Improper Use of Influence) of the *Code of Conduct*.

Appropriate Sanction

I recommend that the appropriate sanction will demonstrate Council’s commitment to meaningful enforcement of the *Code of Conduct for Members of Council* and will also reflect the capacity of the Councillor to carry out any sanction imposed in a meaningful way. These two principles arise from the information discovered by this investigation and how this information was received by Councillor Ford.

Councillor Ford struggled with this investigation, the findings and the recommendations. He appeared to genuinely find it difficult to understand how others could feel uncomfortable with his letters or how the fact of lobbyists donating to his personal cause, at his request and with his knowledge of the donations, could compromise the Councillor-lobbyist relationship. He approached the issues in rather concrete terms, for example he insisted that because it was his letterhead that he had paid for without resort to his office budget, that he could use it for fundraising. When it was suggested that by creating independent Football Foundation letterhead he could separate his role as Councillor from his personal foundation, he wanted to know who would pay for that new letterhead and why he should pay for it. He repeated some of his earlier justifications for fundraising, and continued to insist that he had approval from the TFC to use his letterhead, although this is not the view of that organization nor was it the advice he received prior to this complaint.

To his credit, he made himself available on a number of occasions to discuss the findings and provide information. Although he said he had discarded 90 per cent of the material he received from the TCF, and could not produce business cards for people he had asked to donate, he provided copies of some of the paperwork which assisted in the investigation. He also made his staff available to respond to questions and to receive information on his behalf about the investigation.

This report is the fifth report to Council concerning breaches of the *Code of Conduct* by Councillor Ford. He has been reminded in the past that it is a breach of the *Code of Conduct* to use the City logo for private concerns, not related to the work of the City. Also, Councillor Ford received specific advice in February of 2010 and December of 2009 which outlined the dangers inherent in his fundraising activity. If he had followed this advice, he could have avoided a further complaint, this investigation and the need for Council to become involved.

Article XVIII of the *Code of Conduct* permits Council (among other sanctions which do not apply in this case) to request a Councillor to write an apology to a complainant, to return or reimburse money received and to reimburse sources for the value of property received.

This would have been an ideal case for the Councillor to demonstrate accountability and understanding by taking practical, corrective actions before this matter came to Council. Councillor Ford was given the opportunity to take a number of corrective steps. (The recommended steps were acknowledgement of the breach, agreeing to change his fundraising methods, repayment to the City and the lobbyists/corporation, an apology, consultation with the Lobbyist-Registrar, and correction of misstatements about his Football Foundation in his publications.) He considered these recommendations and we discussed them on a number of occasions in July and early August. As of the date of this report, Councillor Ford had not yet confirmed as requested whether or not he would take any corrective action. If he has done so by the time this report is considered by Council, I will recommend that no additional sanctions are necessary. If he chooses not to take any corrective action, the following comments on sanction are presented to Council for its consideration.

How can Council demonstrate to the public that the City of Toronto will enforce its *Code of Conduct* and that Council expects its members to act with integrity? In this case I considered recommending to Council that Councillor Ford be asked to write a letter of apology to the complainant. This would have been an appropriate step to take if Councillor Ford had been willing to offer and write such an apology. A sincere apology would have demonstrated insight into the problem. However, given the difficulty with which Councillor Ford received these findings, I am unable to recommend that Council impose this sanction. It would not do justice to the complainant, because it would not be sincere. It would be unhelpful to Councillor Ford who is not yet able to appreciate the point of view of the complainant.

I also considered asking Council to require Councillor Ford to repay the value of staff time used in administering his Football Foundation during the period from December 10, 2009 to May 7, 2010. (This is the period from the time he received the initial advice to separate his personal fundraising from his Councillor role, to the date of the last donation received in 2010.) This would have been a practical and logical way to repay his use of taxpayers' dollars for a private matter. However, there is a problem in determining a meaningful estimate of how much time was used. Councillor Ford said that he threw away 90% of the correspondence from the TCF. He did not retain any mailing lists that could have demonstrated the volume of fundraising letters sent out. He said it was impossible to produce the business cards from which the mailing labels were prepared. These documents would be useful in calculating staff time in filing, taking instructions, writing e mails, and preparing donation letters. When I discussed repayment with Councillor Ford, he suggested that it would only amount to about an hour of staff time. This would be over a period of five months, in which there was evidence of a number of e mails and correspondence between his staff and the TCF. Given all of these features, I am not satisfied at this stage that Councillor Ford is able to provide a reasonable estimate of the time used by his staff. Therefore, I am not able to recommend this form of sanction to Council.

There is a quantifiable sanction which Council can impose in this case to reflect the importance of the finding that Councillors must not solicit favours or benefits from lobbyists, nor use their influence for private gain, even where others stand to benefit as well. Donations were made by 11 lobbyists/clients of lobbyists during the relevant time period and one corporation engaged in business with the City of Toronto. These amounts, which total \$3150.00, are detailed in Appendix 1. This information comes from details confirmed by the TCF and provided to Councillor Ford during the investigation. I recommend that Councillor Ford repay the donations which have been classified as improper gifts/benefits. To be clear, this would not deprive the Football Foundation of donations received and distributed to date. Councillor Ford would be responsible for returning these donations. Such a sanction would convey Council's expectation that Councillor Ford is responsible for ensuring that he does not ask for or receive benefits in violation of the *Code of Conduct* and that he will be held accountable by Council for such violations. It would also reflect the importance of a Councillor not using the influence of office for personal causes.

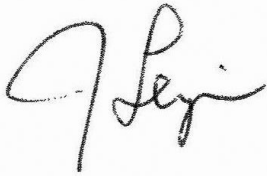
I recommend that Council adopt the following sanction:

1. Councillor Ford will repay the donations received from the lobbyists and the corporation engaged in business with the City of Toronto in the amounts set out in Appendix 1 of this report.

CONTACT

Janet Leiper, Integrity Commissioner
Phone: 416-397-7770; Fax: 416-392-3840
Email: jleiper@toronto.ca

SIGNATURE

A handwritten signature in black ink, appearing to read 'J. Leiper', is centered within a light gray rectangular box.

Janet Leiper
Integrity Commissioner

ATTACHMENTS

Appendix 1: Lobbyist and Corporate Donation Information: Tables 1 and 2

Appendix 2: Excerpts from the *Code of Conduct* Article IV (Gifts and Benefits), VI (Use of City Property, Services and Other Resources), VIII (Improper Use of Influence), and Article XVIII (Compliance with the Code of Conduct)

Appendix 3: Integrity Commissioner Report to Council adopted on December 11, 12 and 13, 2007 and Decision of City Council, December 11, 12 and 13, 2007



Appendix 1: Lobbyist and Corporate Donation Information

Table 1: Lobbyist Donation Information

Lobbyist	Amt Donated	Donation Date	Lobbying Dates	Contact with Councillor Ford
CL-1	400	08/31/09	11/08 to 10/09	
C-2	400	09/03/09	04/08 to 05/10	
C-3	50	09/08/09	09/09 to 12/09	Meeting
L-4	200	09/09/09	02/08 to 07/10	In writing
CL-5	400	09/11/09	03/08 to date	
L-6	100	09/21/09	09/09 to 03/10	Meetings/calls
CL-7	500	10/02/09	03/08 to 4/10	
CL-8	400	11/24/09	04/09 to 6/10	Telephone call
CL-9	50	11/24/09	04/09 to 12/10	Email/call
CL-10	250	05/07/10	04/08 to 07/10	Meetings/writing
CL-11	N/A	August 09	03/08 to 02/09	

L-Lobbyist C-Client of Lobbyist CL-Client/Lobbyist (In-house)

Table 2: Corporate Donation Information

Corporation	Amount Donated	Date of Donation	Receipt of City Contracts
CORP-1	400	09/14/09	2009-2010 (2) 2010-2011 (2)

Appendix 2: Excerpts from the Code of Conduct: Article IV “Gifts and Benefits”, Article VI, “Use of City Property” Article VIII “Improper Use of Influence” and Article XVIII “Compliance with the Code of Conduct.”

IV. GIFTS AND BENEFITS

No member shall accept a fee, advance, gift or personal benefit that is connected directly or indirectly with the performance of his or her duties of office, unless permitted by the exceptions listed below.

For these purposes, a fee or advance paid to or a gift or benefit provided with the member’s knowledge to a member’s spouse, child, or parent, or to a member’s staff that is connected directly or indirectly to the performance of the member’s duties is deemed to be a gift to that member.

The following are recognized as exceptions:

- (a) compensation authorized by law;
- (b) such gifts or benefits that normally accompany the responsibilities of office and are received as an incident of protocol or social obligation;
- (c) a political contribution otherwise reported by law, in the case of members running for office;
- (d) services provided without compensation by persons volunteering their time;
- (e) a suitable memento of a function honouring the member;
- (f) food, lodging, transportation and entertainment provided by provincial, regional and local governments or political subdivisions of them, by the Federal government or by a foreign government within a foreign country, or by a conference, seminar or event organizer where the member is either speaking or attending in an official capacity;
- (g) food and beverages consumed at banquets, receptions or similar events, if:
 - 1. attendance serves a legitimate business purpose;
 - 2. the person extending the invitation or a representative of the organization is in attendance; and
 - 3. the value is reasonable and the invitations infrequent;
- (h) communication to the offices of a member, including subscriptions to newspapers and periodicals; and
- (i) sponsorships and donations for community events organized or run by a member or a third party on behalf of a member, subject to the limitations set out in the Policy on Council Member-Organized Community Events.

Except for category (c) (political contributions allowable by law), these exceptions do not apply where such gifts or benefits are provided by lobbyists or their clients or employers (as defined or described in Municipal Code Chapter 140, Lobbying).

For these purposes, a lobbyist is an individual, organization or business that:

- [i] is lobbying or causing the lobbying of any public office holder at the City, a local board (restricted definition) or the board of health;
- [ii] the member knows is intending to lobby, having submitted or intending to submit a registration to the Lobbyist Registrar for approval to communicate on a subject matter; or
- [iii] is maintaining an active lobbyist registration with the City even though not having a current active subject matter registered with the lobbyist registry.

In the case of categories (b), (e), (f), (g), (h) and (i), if the value of the gift or benefit exceeds \$300, or if the total value received from any one source during the course of a calendar year exceeds \$300, the member shall within 30 days of receipt of the gift or reaching the annual limit, file a disclosure statement with the Integrity Commissioner.

The disclosure statement must indicate:

1. the nature of the gift or benefit;
2. its source and date of receipt;
3. the circumstances under which it was given or received;
4. its estimated value;
5. what the recipient intends to do with any gift; and
6. whether any gift will at any point be left with the City.

Any disclosure statement will be a matter of public record.

On receiving a disclosure statement, the Integrity Commissioner shall examine it to ascertain whether the receipt of the gift or benefit might, in her or his opinion, create a conflict between a private interest and the public duty of the member. In the event that the Integrity Commissioner makes that preliminary determination, he or she shall call upon the member to justify receipt of the gift or benefit.

Should the Integrity Commissioner determine that receipt was inappropriate, he or she may direct the member to return the gift, reimburse the donor for the value of any gift or benefit already consumed, or forfeit the gift or remit the value of any gift or benefit already consumed to the City.

Except in the case of categories (a), (c), (f) and (i), a member may not accept a gift or benefit worth in excess of \$500 or gifts and benefits from one source during a calendar year worth in excess of \$500.

VI. USE OF CITY PROPERTY, SERVICES AND OTHER RESOURCES

No member of Council should use, or permit the use of City land, facilities, equipment, supplies, services, staff or other resources (for example, City-owned materials, websites, Council transportation delivery services and member of Council expense budgets) for activities other than the business of the Corporation. Nor should any member obtain personal financial gain from the use or sale of City-developed intellectual property (for

example, inventions, creative writings and drawings), computer programs, technical innovations, or other items capable of being patented, since all such property remains exclusively that of the City.

VIII. IMPROPER USE OF INFLUENCE

No member of Council shall use the influence of her or his office for any purpose other than for the exercise of her or his official duties.

Examples of prohibited conduct are the use of one's status as a member of Council to improperly influence the decision of another person to the private advantage of oneself, or one's parents, children or spouse, staff members, friends, or associates, business or otherwise. This would include attempts to secure preferential treatment beyond activities in which members normally engage on behalf of their constituents as part of their official duties. Also prohibited is the holding out of the prospect or promise of future advantage through a member's supposed influence within Council in return for present actions or inaction.

For the purposes of this provision, "private advantage" does not include a matter:

(a) that is of general application; (b) that affects a member of Council, his or her parents, children or spouse, staff members, friends, or associates, business or otherwise as one of a broad class of persons; or (c) that concerns the remuneration or benefits of a member of Council.

XVIII. COMPLIANCE WITH THE CODE OF CONDUCT

Members of Council are accountable to the public through the four-year election process. Between elections they may, for example, become disqualified and lose their seat if convicted of an offence under the *Criminal Code* of Canada or for failing to declare a conflict of personal interest under the *Municipal Conflict of Interest Act*.

In addition, subsection 160(5) of the *City of Toronto Act, 2006*, authorizes Council to impose either of two penalties on a member of Council following a report by the Integrity Commissioner that, in her or his opinion, there has been a violation of the *Code of Conduct*:

1. A reprimand; or
2. Suspension of the remuneration paid to the member in respect of his or her services as a member of Council or a local board, as the case may be, for a period of up to 90 days.

Other Actions

The Integrity Commissioner may also recommend that Council or a local board (restricted definition) take the following actions:

1. Removal from membership of a Committee or local board (restricted definition).
2. Removal as Chair of a Committee or local board (restricted definition).

3. Repayment or reimbursement of moneys received.
4. Return of property or reimbursement of its value.
5. A request for an apology to Council, the complainant, or both.

Appendix 3: Decision of Council December 11, 12 and 13, 2007 and Report to Council, November 28, 2007

CC. 15.1 Complaint of Violation of Code of Conduct by Councillor Ford City Council Decision

City Council on December 11, 12 and 13, 2007, adopted the following motions:

1. City Council adopt the finding that Councillor Rob Ford has violated the Code of Conduct.
2. City Council not impose any sanction on Councillor Ford.

Link to Background Information

Council considered the following:

- Report (November 28, 2007) from the Integrity Commissioner. ([CC15.1](#))



**INTEGRITY
COMMISSIONER
REPORT
ACTION REQUIRED**

Complaint of Violation of Code of Conduct by Councillor Ford

Date:	November 28, 2007
To:	City Council
From:	Integrity Commissioner
Wards:	All
Reference Number:	

SUMMARY

A person complained that Councillor Rob Ford violated the *Code of Conduct for Members of Council and Local Boards (Restricted Definition)* (“Code of Conduct”) by enclosing a decal promoting a printing company in an invitation to a summer barbecue sent in an envelope bearing his City Hall address and the City of Toronto logo. More particularly, the complainant alleged that Councillor Ford had violated Articles VI (“Use of City Property, Services and Other Resources”) and VIII (“Improper Use of Influence”).

Councillor Ford admitted the facts as alleged and added that he used City Hall return address stickers on twenty to thirty of around six hundred invitations. He had run out of stickers bearing his home address. He also offered to meet with and apologize to the complainant. The complainant rejected this offer and sought a public apology.

The inclusion of promotional material for a business in an envelope bearing a City Hall return address sticker was a violation of both Clauses VI and VII of the Code of Conduct. It involved the use of City property (the logo) for other than the purposes of the Corporation and the Councillor improperly using his status as a Member of Council for the purposes of promoting a business.

Even though this is the second time that Councillor Ford has violated the Code of

Conduct in this way, I am not recommending that Council impose any sanction on him. His assumption of responsibility, willingness to meet with the complainant and apologize to him, along with his full cooperation with my investigation convinced me that a public report to Council would be a sufficient sanction.

RECOMMENDATIONS

The Integrity Commissioner recommends that:

1. City Council adopt the finding that Councillor Rob Ford has violated the Code of Conduct; and
2. City Council not impose any sanction on Councillor Ford

Financial Impact

These recommendations will have no financial impact.

DECISION HISTORY

This report results from a complaint under the *Code of Conduct for Members of Council and Local Boards (Restricted Definition)* (“Code of Conduct”) that Councillor Rob Ford violated the Code of Conduct. On the basis of an investigation, I made a decision (Appendix A) that Councillor Ford had violated the Code of Conduct. As required by the *Code of Conduct Complaint Protocol* (“Complaint Protocol”) and section 162(3) of the *City of Toronto Act, 2006*, I am obliged to report to City Council publicly on any finding of violation of the Code of Conduct.

ISSUE BACKGROUND

Councillor Rob Ford holds an annual barbecue in his capacity as a Member of Council. He invites hundreds of people to this barbecue. This year, when processing the invitations, he ran out of return address stickers bearing his home address. For the last twenty or thirty, he used stickers bearing his City Hall address and the City of Toronto logo. The mailing included not only a flyer announcing the barbecue but also a decal promoting a business that prints deco labels and tags.

A member of the public made a formal complaint that this violated Articles VI (“Use of City Property, Services and Other Resources”) and VIII (“Improper Use of Influence”) of the Code of Conduct. These provisions prohibit Members of Council from using the property of the City for other than the purposes of the Corporation and from improper use of influence.

Councillor Ford admitted the facts on which the complaint was based and provided the explanation that he only used the City Hall return address stickers when he ran out of his

domestic return address stickers. He also offered to meet with and apologize to the complainant. The complainant rejected that offer and requested that I report the violations to City Council with a recommendation for a public apology.

COMMENTS

Did the Councillor Violate the Code of Conduct?

Councillor Ford's actions violated the Code of Conduct. In using an envelope bearing the City of Toronto logo and his City Hall office address to mail out an invitation that also contained promotional material for a business, Councillor Ford used City-owned resources (the City's logo) for other than the purposes of the Corporation. This was a violation of Article VI. He also violated Article VIII. Using one's position as a Member of Council to influence someone to use a particular business is improper in terms of that provision. The uses of the City Hall return address sticker plus the fact that Councillor Ford was sending the invitations out in his capacity as a Councillor associated the enclosed promotional decal with the Councillor and clearly suggested that the Councillor was endorsing the business's product. In the circumstances, Councillor Ford was correct in acknowledging responsibility and offering to make amends to the complainant.

What should be done About It?

Despite the fact that Councillor Ford violated the Code of Conduct in a similar manner in early 2005, I was prepared to approve a settlement of the complaint as authorized by section 5(1) of the Complaint Protocol had the complainant been willing to accept Councillor Ford's offer of a meeting and an apology. However, the complainant with justification asserted that the violations were not personal to him but affected the population of the City as a whole. He therefore requested that Councillor Ford make a public apology.

Given Councillor Ford's prompt and contrite acceptance of responsibility as well as his initiation of the proposal that he meet with the complainant and apologize to him, I am not prepared to recommend to Council that it request Councillor Ford to apologize as provided for in Article XVIII of the Code of Conduct. While the violations were not trivial in terms of section 12(7) of the Complaint Protocol, I am nonetheless satisfied that a public report to Council without recommendation for any sanction is appropriate in the circumstances.

CONTACT

David Mullan, Integrity Commissioner
Phone: 416-397-7770; Fax: 416-392-3840
Email: dmullan@toronto.ca

SIGNATURE

David Mullan, Integrity Commissioner

ATTACHMENTS

Appendix A: Integrity Commissioner Decision on Complaint against Councillor Rob Ford.

APPENDIX A

Date:	November 28, 2007
To:	Ulli Watkiss, City Clerk
From:	David Mullan, Integrity Commissioner
Subject:	Report on Complaint

NATURE OF COMPLAINT

A person complained that Councillor Rob Ford violated the *Code of Conduct for Members of Council and Local Boards (Restricted Definition)* (“Code of Conduct”) by enclosing a decal promoting a printing company in an invitation to a summer barbecue sent in an envelope bearing his City Hall address and the City of Toronto logo. More particularly, the complainant alleged that Councillor Ford had violated Articles VI (“Use of City Property, Services and Other Resources”) and VIII (“Improper Use of Influence”).

SUMMARY OF FINDINGS

Councillor Ford admitted that he had indeed sent out the invitation as alleged and I find that this constituted a violation of both Articles VI and VIII of the Code of Conduct. Councillor Ford explained that he ran out of other address stickers to attach to the many hundreds of invitations that he was mailing and turned for the last few to address stickers bearing his City Hall address and the City of Toronto logo. He also offered to meet with and apologize to the complainant. The complainant was not content with this. He sought an apology to the people of Toronto. This is the second time that Councillor Ford has violated the Code of Conduct in this kind of way. However, the fact that he was prepared readily to take responsibility and apologize plus the presence of mitigating circumstances persuaded me that I should do no more than report the violation publicly to Council without any recommendation for sanction.

FACTS

Councillor Ford, in his capacity as a Councillor holds an annual barbecue to which he invites constituents and many others. He has been doing this for twelve years. He pays for the event out of his own funds. (Whether he should be doing that is not part of this complaint and is subject to a separate inquiry that the Auditor General and I have been conducting.)

The 2007 version of the barbecue was held on August 26, 2007. Councillor Ford mailed out between six and seven hundred invitations. The mailing included not only a flyer announcing the barbecue but also a decal promoting a company that prints deco labels and tags, the Ford family company currently run by his brother. The vast majority of these invitations had attached to them return address stickers bearing Councillor Ford's home address. However, he ran out of his domestic return address stickers and for the last few envelopes used instead return address stickers bearing his City Hall Office address and the City of Toronto logo (stickers that he had also paid for himself). Councillor Ford could not recollect precisely how many of the invitations bore this sticker but he estimated twenty (and thirty at most). When confronted with the formal complaint, Councillor Ford readily took responsibility for what had occurred, provided his explanation, and offered to meet with and apologize to the complainant as a way of settling this matter informally. I conveyed that offer to the complainant. He declined expressing his preference for a public apology to the citizens of Toronto. I conveyed that to Councillor Ford and, without ascertaining whether he was prepared to make a public apology, made my decision.

RELEVANT PROVISIONS

The relevant provisions of the Code of Conduct are as follows:

VI. USE OF CITY PROPERTY, SERVICES AND OTHER RESOURCES:

No member of Council should use, or permit the use of City land, facilities, equipment, supplies, services, staff or other resources (for example, City-owned materials, web sites, Council transportation delivery services and Councillor global budgets) for activities other than the business of the Corporation. Nor should any member obtain financial gain from the use or sale of City-developed intellectual property (for example, inventions, creative writings and drawings), computer programs, technical innovations, or other items capable of being patented, since all such property remains exclusively that of the City.

VIII. IMPROPER USE OF INFLUENCE:

No member of Council shall use the influence of her or his office for any purpose other than for the exercise of her or his official duties. Examples of prohibited conduct are the use of one's status as a member of Council to improperly influence the decision of another person to the private advantage of oneself, or one's parents, children or spouse, staff members, friends, or associates, business or otherwise...

ANALYSIS

Did the Councillor Violate the Code of Conduct?

Councillor Ford's actions violated both these provisions of the Code of Conduct. In using an envelope bearing the City of Toronto logo and his City Hall office address to mail out

an invitation that also contained promotional material for a business, Councillor Ford used City-owned resources (the City's logo) for other than the purposes of the Corporation. This was a violation of Article VI.

He also violated Article VIII. Using one's position as a Member of Council to influence someone to use a particular business is improper in terms of that provision. The use of the City Hall return address sticker plus the fact that Councillor Ford was sending the invitations out in his capacity as a Councillor associated the enclosed promotional decal with the Councillor and clearly suggested that the Councillor was endorsing the business's product. In the circumstances, Councillor Ford was correct in acknowledging responsibility and offering to make amends to the complainant.

What should be done About It?

Despite the fact that Councillor Ford violated the Code of Conduct in a similar manner in early 2005, I was prepared to approve a settlement of the complaint as authorized by section 5(1) of the *Code of Conduct Complaint Protocol* ("Complaint Protocol") had the complainant been willing to accept Councillor Ford's offer of a meeting and an apology. However, as already indicated, the complainant with justification asserted that the violations were not personal to him but affected the population of the City as a whole. He therefore requested that Councillor Ford make a public apology.

Given Councillor Ford's prompt and contrite acceptance of responsibility as well as his initiation of the proposal that he meet with the complainant and apologize to him, I am not prepared to recommend to Council that it request Councillor Ford to apologize as provided for in Article XVIII of the Code of Conduct. While the violations were not trivial in terms of section 12(7) of the Complaint Protocol, I am nonetheless satisfied that a public report to Council without recommendation for any sanction is appropriate in the circumstances.

CONCLUSIONS

Councillor Ford violated two provisions of the Code of Conduct. By using the City of Toronto logo on a mailing containing advertising material for a printing business, he used the property of the City for other than the purposes of the Corporation. This was a violation of Article VI. He also violated Article VIII when, in that mailing, he associated his office with the promotion of the same printing business. However, despite the complainant's call for a public apology, I regard Councillor Ford's admission of responsibility, expression of regret, and cooperation with my investigation as justifying no greater sanction than comes from a public report to Council.

David Mullan
Integrity Commissioner