



FROESE FORENSIC
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**Compliance Audit Report
For the City of Toronto
Re: Giorgio Mammoliti**

January 10, 2013



Contents

1 Introduction2

 Background to the Compliance Audit2

 Our Approach to the Compliance Audit.....3

 Procedures Performed.....3

2 Overall Findings5

 Overall Summary.....5

 General.....5

 Contributions7

 Expenses8

Expense sharing with Mayoral campaign8

Expenses not reported or reported incorrectly.....9

 Financial Reporting11

3 Details in Support of Findings15

 Contributions15

 Expenses18

 Financial Reporting33

4 Restrictions and Limitations34

Schedule 1 – Adjustments to the Supplementary Financial Statement

Schedule 2 – Summary of Money Orders

Appendix A – What the Act and Guide Say About Financial Records and Reporting



1 Introduction

Background to the Compliance Audit

- 1.1 This Report is the result of a request for a compliance audit under Section 81 of the Municipal Elections Act, 1996 (“**the Act**”) in relation to the campaign finances of Giorgio Mammoliti (“**Mammoliti**” or “**the Candidate**”) as it relates to his election as Councillor for Ward 7.
- 1.2 Mammoliti filed for election as Councillor for Ward 7 on July 9, 2010.
- 1.3 Mammoliti filed for election as Mayor on January 5, 2010 and withdrew on July 9, 2010.
- 1.4 After initially submitting his Primary Financial Statement (“**the Primary Financial**”) on March 25, 2011 for the campaign period from July 10, 2010¹ to December 31, 2010, Mammoliti attested on September 29, 2011 that his Supplementary Financial Statement for the extended campaign period from July 9, 2010 to June 30, 2011 (“**the Supplementary Financial**”) was true and correct to the best of his knowledge and belief. Our findings are based upon information contained in both Financial Statements (collectively “**the Financial Statements**”).
- 1.5 On December 28, 2011, David DePoe (“**DePoe**” or “**the Applicant**”) submitted a request for a compliance audit to the City of Toronto Compliance Audit Committee (“**the Committee**”). The Applicant identified the following issues regarding the Supplementary Financial:
 - 1) Mammoliti failed to report costs for office space used at 2958 Islington Avenue while reporting utilities and insurance associated with this location;
 - 2) Expenses incurred by the campaign exceed those reported in the Supplementary Financial. In particular, available invoices for advertising, brochures and office expense exceed the expense totals reported; and

¹ Filing date was actually July 9, 2010 and July 10th was reported in error. The Supplementary Financial reported the correct starting date.



- 3) Mammoliti exceeded the overall campaign spending limit when the additional expenses are included.
- 1.6 On January 24, 2012, a Supplemental Submission was filed on behalf of DePoe by his lawyers, Lenczner Slaght Royce Smith Griffin LLP, that expanded on the Application, alleging that Mammoliti improperly accepted a donation of \$1,250 and that he failed to keep adequate records of other contributions.
- 1.7 The Committee met on January 20, 2012 and January 27, 2012, and approved a compliance audit of the Financial Statements on 2010 election campaign finances and the 2011 extended campaign finances of Mammoliti pursuant to Subsection 81(7) of the Act.
- 1.8 Bruce Armstrong, FCA of Froese Forensic Partners Ltd (“**FFP**”) and Glen R. Davison, CA, were retained to conduct the compliance audit in accordance with the Act. Subsection 81(9) of the Act requires that the auditor prepare a report “*outlining any apparent contravention by the candidate.*” This Report contains our findings in relation to our compliance audit of the Financial Statements submitted by Mammoliti.

Our Approach to the Compliance Audit

- 1.9 The objective of our compliance audit is to report any apparent contraventions of the Act identified through the course of our compliance audit related to the Financial Statements filed by Mammoliti. We have set out our understanding of a number of relevant sections of the Act as **Appendix A** to this Report.
- 1.10 The compliance audit addressed the issues raised by the Applicant as identified in paragraphs 1.5 and 1.6 and during the course of our compliance audit that are relevant to the Financial Statements of the Candidate. The audit also addressed other matters identified through the compliance audit process, including:
 - 1) Whether the fair market value of goods and services were reflected in the Financial Statements as contributions and expenses;
 - 2) Whether campaign expenses were appropriately supported by invoices or other supporting documentation and incurred as appropriate; and
 - 3) Whether the Financial Statements were prepared in accordance with the Municipal Elections Act 1996 (“**the Act**”) and the City of Toronto 2010 Municipal Election Candidate’s Guide (“**the Guide**”).

Procedures Performed

- 1.11 Our procedures related to the compliance audit included:



- 1) A review of the Compliance Audit Application by the Applicant;
- 2) A review of the Financial Statements and supporting documents;
- 3) Attendance on September 5, 2012 at a meeting with the Candidate's legal counsel, Jack Siegel ("**Siegel**" or "**Counsel**"), the campaign manager for Mammoliti, Melissa Palladino ("**Ms. Palladino**"), and Mammoliti in relation to the campaign and accounting;
- 4) Examination of the accounting and financial documentation and ongoing communications with the Candidate via Siegel;
- 5) Examination and review of the accounting and financial documentation provided for Mammoliti's preceding Mayoral campaign;
- 6) Phone conversation with the Applicant on September 4, 2012 to fully understand his allegations and determine if there were any additional allegations;
- 7) Contacting third party service providers;
- 8) Further meetings with the Candidate and/or Ms. Palladino, with Counsel in attendance, on December 21st and 28th, 2012;
- 9) Periodic communications with Bernard Nayman, CA ("**Nayman**") via Siegel followed by telephone interviews with Nayman on January 7th and 8th, 2013;
- 10) Ongoing meetings and discussions with Siegel, in particular to follow-up outstanding requests; and
- 11) Preparation of our report.



2 Overall Findings

Overall Summary

- 2.1 In our opinion the Candidate's campaign expenses subject to limitation exceeded the campaign's authorized limit by \$12,065, as set out in Schedule 1. This is an apparent contravention of Section 76(4) of the Act. Additional apparent contraventions in relation to contributions, campaign expenses, and financial reporting are discussed in summary form in this section and in more detail in Section 3 of this report.
- 2.2 Mammoliti initially ran for Mayor and subsequently aborted that campaign and ran as a Councillor. We accept Counsel's explanation that this caused accounting issues in allocating expenses between the two campaigns. In addition to this issue, some of the expenses incurred on the personal American Express Card of Mammoliti ("AMEX") were either omitted from the campaign expenses or reflected incorrectly in the Financial Statements, and in most cases are apparent contraventions of Subsections 67(1), 69(1)(k) and 78 of the Act.
- 2.3 Counsel for Mammoliti advised us that the Candidate and his campaign team had concerns with the advice Nayman provided in recording entries and with his role in finalizing the Supplementary Financial. These are discussed further in the following section. We emphasize to the Committee that the Act holds the Candidate ultimately responsible for the integrity of the books, records and Financial Statements, as set out in Section 69 of the Act.

General

- 2.4 Mammoliti and his campaign team generally cooperated with the compliance audit process. We had some questions with the campaign accounting that Ms. Palladino was unable to answer, necessitating enquiries of Nayman. Counsel for Mammoliti initially arranged that communications with Nayman be directed through Counsel, resulting in delays in obtaining understandable and supportable responses to our enquiries and in producing additional requested information.
- 2.5 In particular, several accounting adjustments were recorded between the Councillor campaign and the aborted Mayoral campaign, for which Nayman also acted as the campaign accountant and auditor. Amounts were on occasion paid out of one of the campaign bank accounts on behalf of the other. These were recorded by Nayman in his adjustments. Beyond that, FFP only reviewed the Mayoral accounting documentation to the extent necessary to be satisfied that expenses were not charged

to the wrong campaign. FFP was not engaged to audit the Mayoral campaign finances and as such, cannot express an opinion thereon.

- 2.6 Mammoliti first advised FFP on December 21, 2012 that the campaign team had experienced difficulties with Nayman, almost resulting in his resignation on the eve of filing the Supplementary Financials for both campaigns. FFP spoke with both Nayman and Ms. Palladino following this revelation. According to Ms. Palladino, the resignation would only be withdrawn if Mammoliti would agree to sign a letter that was drafted by and addressed to Nayman. Ms. Palladino further advised that Mammoliti signed the letter with reluctance and that the Supplementary Financials were then signed and released.
- 2.7 FFP reviewed the contents of this letter dated September 20, 2011² in which Mammoliti certified that expenses totalling \$7,984 should be moved from the Councillor to the Mayoral financials. FFP questioned Nayman regarding this letter and was advised that he thought it referred to office-related agreements that were signed during the Mayoral campaign. Nayman further advised however that he was not certain about his recollections and that he did not have any detailed working papers in his possession to assist him at this time.
- 2.8 Both Mammoliti and Ms. Palladino advised that they took direction from Nayman and that they did not review the accounting records or the contents of the Financial Statements after they were prepared. As noted above, despite the level of trust that may have been given to Nayman, the Candidate has the ultimate responsibility for the integrity of the books, records and financial filings as set out in Section 69 of the Act.
- 2.9 Mammoliti signed and swore on Page 3 of the Financial Statements that:
- “I, Giorgio Mammoliti, a candidate in the municipality of Toronto, hereby declare to the best of my knowledge and belief that these financial statements and attached supporting schedules are true and correct.”*
- 2.10 The Primary Financial for the period July 9, 2010 to December 31, 2010 reported a deficit of \$7,483.21 and total contributions of \$38,175.00.
- 2.11 The Supplementary Financial for the period July 9, 2010 to June 30, 2011, the end of the extended campaign period, reported a surplus of \$9,112.64 and total contributions of \$86,585.00. Contributions received after December 31, 2010 totaled \$48,410.00.

² Letter addressed to Bernard Nayman and signed by Mammoliti that concludes in part: *“Therefore, they represent an election expense for the Mayoral candidacy.”*



- 2.12 Mammoliti had a campaign expense limitation of \$27,464.65. The Supplementary Financial reported campaign expenses subject to limitation of \$25,848.09. Expenses not subject to limitation were reported as \$51,724.27.
- 2.13 Mammoliti filed his nomination papers for Councillor on July 9, 2010; however documentation revealed that he left Canada shortly after registering and didn't return until early August 2010. As discussed in paragraphs 3.23 to 3.26, we are satisfied that all expenses incurred prior to August 1, 2010 can be attributed to the aborted Mayoral campaign.

Contributions

- 2.14 Four (4) contributions totaling \$2,000 were deposited to the campaign account on or after the end of the extended campaign period, June 30, 2011. The contributions were dated on or before June 30 2011, and were made in accordance with Subsection 68(1)(4)(i) of the Act. However, the contributions were not identified by either contributor or address in the Supplementary Financial. One of the contributions for \$750 was made by the Candidate yet was included within the *All other contributions* total on the Supplementary Financial. These are apparent financial reporting contraventions of Subsections 69(1)(k) and 78(2) of the Act. This is further discussed in paragraphs 3.2 to 3.3 and 3.16 to 3.17.
- 2.15 Money orders totalling \$9,235.00 were deposited to the campaign account as twenty four (24) individual contributions. We are satisfied that eighteen (18) of the money orders appear to have been purchased by the respective contributor. For the remaining six (6) money orders totalling \$2,310, we could not verify with certainty that the contributor purchased the money order or by what means. For these, the acceptance of cash over \$25.00 may be apparent contraventions of Subsection 70(8) of the Act. This is further discussed in paragraphs 3.4 to 3.8.
- 2.16 The Candidate accepted two (2) contributions totalling \$900 on January 18, 2011 that apparently came from the same person, as evidenced by the information on the campaign receipts and the Supplementary Financial. Accepting contributions in excess of \$750 from one individual is an apparent contravention of Subsection 71(1) of the Act. This is further discussed in paragraphs 3.14 to 3.15.
- 2.17 We noted additional apparent financial reporting contraventions of Subsections 69(1)(k) and 78(2) of the Act, as follows:
- (a) Seventeen (17) instances where a contributor was named in the Supplementary Financial but no address was provided. This is further discussed in paragraph 3.19; and

(b) Eight (8) instances where a contribution receipt did not match the name reported in the Supplementary Financial. This is further discussed in paragraph 3.20.

2.18 We identified several instances of contributions made from the joint bank accounts of contributors where the receipt was not issued to the cheque signor or the signature on the cheque was illegible. We do not consider these items to be apparent contraventions of the Act but the issuance of the receipt did not, in all cases, follow the Guide. This is further discussed in paragraphs 3.9 to 3.13.

Expenses

2.19 In our opinion, the Candidate's campaign expenses subject to limitation exceeded the campaign's authorized limit which is an apparent contravention of Subsection 76(4) of the Act, which limits campaign expenses subject to the limit to an amount calculated in accordance with a prescribed formula. As shown in the attached Schedule 1, as adjusted by the FFP findings, the Candidate incurred expenses subject to the limit of \$39,530. This exceeded the eligible spending limit by \$12,065 as set out in the following paragraphs in the report.

Expense sharing with Mayoral campaign

2.20 Mayoral campaign activities overlapped the Councillor campaign from the date of Mammoliti's Councillor Nomination filing (July 9, 2010) to Election Day (October 25, 2010). The Councillor campaign accounting considered that the campaign started as of August 27, 2010. Expenses that were incurred between July 9, 2010 and that date, and which were not specific to the Councillor campaign, were allocated 100% to the Mayoral campaign. This is further discussed in paragraphs 3.27 to 3.31.

2.21 We conclude that a more appropriate campaign start date was August 1, 2010. Mammoliti was out of the country on vacation from July 10th to 31st, 2010. We found no evidence of Councillor campaign activity in the month of July 2010 based on our review of contribution activity and expense/payment activity. We accepted the allocation of 100% of expenses incurred in the month of July 2010 (including, for example, rent for the shared office space) to the Mayoral campaign. This is further discussed in paragraphs 3.23 to 3.26.

2.22 Some expenses incurred after July 2010 were shared by both campaigns. In our opinion a 70:30 allocation is reasonable for shared expenses incurred from August 1 through October 25, 2010 between the Councillor and Mayoral campaigns. This is further discussed in paragraphs 3.27 to 3.31.



Expenses not reported or reported incorrectly

- 2.23 The Candidate did not pay the prescribed rent during the month of August 2010 for the use of the 2958 Islington Ave campaign office. This amounted to a contribution-in-kind made by the landlord, Arnone Brothers in the amount of \$768.40, which is an apparent contravention by the contributor and Candidate of Subsections 66(2)(1)(iii), 71(1) and possibly 70(1) of the Act. This is discussed in paragraph 3.38.
- 2.24 Rent is a shared expense that we allocated on a 70:30 basis to the Councillor and Mayoral campaigns respectively for the lease period beginning in August 2010. We determined that a further \$1,718 in rent expenses should be attributed to the Councillor campaign. In our opinion, this is an apparent contravention of Subsection 67(1) of the Act. This is further discussed in paragraphs 3.32 to 3.39.
- 2.25 The campaign was invoiced \$4,710.97 for brochures and paid the balance owing via three (3) separate payments. While everything was recorded in the Supplementary Financial, a portion (\$1,710.97) was excluded from the Primary Financial. This is an apparent financial reporting contravention of Subsections 67(1), 69(1)(k) and 78(1) of the Act. This is further discussed in paragraphs 3.40 to 3.44.
- 2.26 Payments totalling \$2,710.97 for brochures were included as campaign expenses not subject to limitation in the Supplementary Financial (\$1,000 as *fundraising expenses* and \$1,711 as *Other expenses*). In our opinion, the full \$4,710.97 are *advertising expenses* and the failure to record the \$2,710.97 as *advertising expense* subject to limitation is an apparent financial reporting contravention of Subsections 69(1)(k) and 78(2) of the Act. This is further discussed in paragraphs 3.40 to 3.44.
- 2.27 The Suncor Energy credit card was available for use by individuals working in the campaign office. Some of these individuals were hired exclusively for fundraising. While the accounting treatment may in fact be appropriate, there was a lack of adequate recordkeeping. In our opinion, this is an apparent contravention of Subsection 69(1)(g) of the Act which requires that candidates ensure records are kept of every expense. This is further discussed in paragraphs 3.45 to 3.49.
- 2.28 The campaign used the personal American Express Card of Mammoliti to pay for certain campaign expenses. A number of these expenses were subsequently either omitted from the campaign expenses or reflected incorrectly in the Financial Statements, as follows:
- (a) A Rogers Wireless invoice for \$1,661.14 was omitted. In our opinion the failure to include this as an expense subject to limitation is an apparent contravention of Subsections 67(1) and 78 of the Act. This is further discussed in paragraph 3.54;



- (b) A Rogers Wireless invoice for \$1,397.47 was reflected improperly in part as a *post-polling expense*, not subject to limitation. A portion (\$257) of this amount should be re-allocated to expenses subject to limitation. This is an apparent financial reporting contravention of Subsections 69(1)(k) and 78 of the Act. This is further discussed in paragraph 3.55;
- (c) A Rogers Wireless invoice for \$669.65 was reflected improperly and should be re-allocated as an expense not subject to limitation. This is an apparent financial reporting contravention of Subsections 69(1)(k) and 78 of the Act. This is further discussed in paragraph 3.56;
- (d) A Rogers Cable and Internet invoice for \$706.69 was omitted and the time period covered both the Mayoral and Councillor campaigns. A portion (\$460) of this amount should be allocated to the Councillor campaign expenses subject to limitation. This is an apparent contravention of Subsections 67(1) and 78 of the Act. This is further discussed in paragraph 3.57;
- (e) Several invoices from Motion Technology Solutions were omitted. These totalled \$5,961.10 and covered the July to September 2010 period. A portion (\$2,355) of this amount should be allocated to the Councillor campaign and we have further allocated 70% (\$1,347) of this amount to expenses subject to limitation. This is an apparent contravention of Subsections 67(1) and 78 the Act. This is further discussed in paragraphs 3.58 to 3.65;
- (f) Two (2) printing related expenses totalling \$5,433.04 were omitted in part, offset by a \$3,800 reimbursement to the Candidate recorded as an expense subject to limitation. Applying the \$3,800 reimbursement expense to the omitted expenses results in a \$1,602.15 overstatement of expenses subject to limitation. This is an apparent contravention of Subsections 67(1) and 78 of the Act. This is further discussed in paragraphs 3.66 to 3.71;
- (g) A Stitch to Work invoice for \$3,390 was paid by the Councillor campaign and subsequently reflected as an *Accounts receivable* owing by the Mayoral campaign. In our opinion, this should have been allocated to the Councillor campaign as an expense subject to limitation. The failure to do so is an apparent financial reporting contravention of Subsections 69(1)(k) and 78 of the Act. This is further discussed in paragraphs 3.72 to 3.77;
- (h) Two invoices were paid to Bell for use of the fax line related to the Councillor campaign time period. One payment was charged fully to the Mayoral campaign while the second payment was treated as a Councillor expense not subject to limitation. In our opinion, the failure to include \$375 as part of the expenses subject to limitation is an apparent financial reporting contravention of Subsections 69(1)(k) and 78 of the Act. This is further discussed in paragraphs 3.78 to 3.82;



- (i) A Momentum BPO Inc. invoice for \$2,000 was omitted. A portion (\$1,400) of this amount should be allocated to the Councillor campaign expenses subject to limitation and the balance (\$600) to fundraising expenses not subject to limitation. This is an apparent contravention of Subsections 67(1) and 78 of the Act. This is further discussed in paragraphs 3.94 to 3.99.
- 2.29 One of the “Schedule 2 – Fundraising Function” schedules that were included in the Financial Statements was an undated and unidentified fundraising event which reported \$26,475 as contribution revenue. We noted an absence of any fundraising expenses recorded or incurred with respect to hosting any related fundraising events nor did we see any promotional materials that would suggest that any fundraising events were held. In our opinion, expenses reported on this Schedule were indicative of direct solicitation initiatives and the contributions received were as a result of these initiatives. This is further discussed in paragraphs 3.83 to 3.93.
- 2.30 The campaign accountant recorded a journal entry to reduce expenses subject to limitation by \$2,635.56, with the other side of the entry as a receivable owing from the Mayoral campaign. FFP has investigated and can find no basis for making this entry. In our opinion, this is an apparent financial reporting contravention of Subsections 69(1)(k) and 78(2) of the Act. This is further discussed in paragraph 3.101.

Financial Reporting

Adjusted amounts

- 2.31 Schedule 1 incorporates all of the proposed adjustments to the Supplementary Financial discussed earlier in this Section of the report, as follows:

Campaign Period Income – decreased by \$1,692 as follows:

- (a) Adjustment 1 - Re-allocation of \$750 received from the Candidate (paragraph 2.14);
- (b) Adjustment 2 – Removal of \$2,310 in possible cash contributions (paragraph 2.15);
- (c) Adjustment 3 – Removal of the \$150 excess contribution received from one contributor (paragraph 2.16);
- (d) Adjustment 4 – Contribution-in-kind for \$768 in additional rent (paragraph 2.23);



Advertising expense – increased by \$4,499 as follows:

- (e) Adjustment 5 – Re-allocation of \$2,711 from the expenses not subject to limitation *fundraising expenses* (\$1,000) and *Other* (\$1,711) (paragraph 2.26);
- (f) Adjustment 11 – Exclusion of the \$1,602 overstatement of expenses subject to limitation as a result of expensing a higher amount than actually incurred on several printing related invoices (paragraph 2.28(f));
- (g) Adjustment 12 – Inclusion of the Stitch to Work invoice for \$3,390 that had previously been paid by the Councillor campaign but allocated to the Mayoral campaign in error (paragraph 2.28(g));

Office expenses – increased by \$4,353 as follows:

- (h) Adjustment 4 – Increased expenses subject to limitation of \$1,718 based on a 70:30 allocation of this and other rent between the Councillor and Mayoral campaigns (paragraph 2.24);
- (i) Adjustment 15 – Reversal of a \$2,635 journal entry previously made by the campaign accountant (paragraph 2.30);

Phone and/or internet expense – increased by \$5,332 as follows:

- (j) Adjustment 6 – Inclusion of a Rogers Wireless invoice for \$1,661 that had been previously omitted (paragraph 2.28(a));
- (k) Adjustment 7 – Re-allocation of a \$257 portion of a Rogers Wireless invoice from the expenses not subject to limitation (paragraph 2.28(b));
- (l) Adjustment 8 – re-allocation of a \$670 Rogers Wireless invoice from expenses subject to limitation to not subject to limitation (paragraph 2.28(c));
- (m) Adjustment 9 – Inclusion of the \$460 Councillor campaign portion of a Rogers Cable and Internet invoice that had previously been omitted (paragraph 2.28(d));
- (n) Adjustment 10 – Inclusion of the \$2,641 portion of several Motion Technology Solutions invoices that had previously been omitted and allocating \$1,347 of the amount to expenses subject to limitation (paragraph 2.28(e));
- (o) Adjustment 13 – Inclusion of the \$375 Bell fax invoice as an expense subject to the limitation (paragraph 2.28(h));



- (p) Adjustment 14 – Inclusion of the \$2,000 invoice from Momentum BPO Inc. that had previously been omitted and allocating \$1,400 or 70% of the amount to expenses subject to limitation (paragraph 2.28(i));

Cost of fundraising function – increased by \$608 as follows:

- (q) Adjustment 5 – Re-allocation of \$1,000 to *Advertising expenses* (paragraph 2.26);
- (r) Adjustment 10 – Inclusion of \$1,008 representing the fundraising portion of several Motion Technology Solutions invoices (paragraph 2.28(e));
- (s) Adjustment 14 – Inclusion of \$600 representing 30% of the \$2,000 Momentum BPO Inc. invoice (paragraph 2.28(i));

Other expenses – decreased by \$1,298 as follows:

- (t) Adjustment 5 – Re-allocation of \$1,711 Brochures on Loan invoice to *Advertising expense* (paragraph 2.26);
- (u) Adjustment 7 – Re-allocation of a \$257 portion of a Rogers Wireless invoice to *phone and/or internet expense* (paragraph 2.28(b));
- (v) Adjustment 8 – Inclusion of a \$670 Rogers Wireless invoice *phone and/or internet expense* (paragraph 2.28(c)).

Other

- 2.32 The Primary Financial reported *Advertising expenses* as \$192.71 (rather than \$4,919.23) and Bank charges as \$4,919.23 (rather than \$192.71). This was corrected in the Supplementary Financial. In our opinion the initial presentation is an apparent financial reporting contravention of Subsection 78(1) of the Act.
- 2.33 The Supplementary Financial reported \$832.07 of expenses subject to limitation as *Brochures* that should also have been reflected in the Primary Financial. The additional expenses were due to late re-imburement (in 2011) of campaign expenses incurred by Mammoliti and campaign volunteers. In our opinion, the failure to include these in the Primary Financial is an apparent financial reporting contravention of Subsections 67(1) and 78(1) of the Act. This is discussed in paragraph 3.21.
- 2.34 The Supplementary Financial reported a *Signs expense* that was \$1,475.83 less than in the Primary Financial. While this discrepancy was fully reconciled (mostly via reimbursements from the Mayoral campaign), this is information that should have been known by the campaign when preparing the Primary Financial. In our opinion this is an apparent financial reporting contravention of Section 78 of the Act which



requires that the Financial Statements be prepared in the prescribed form. This is discussed in paragraph 3.21.



3 Details in Support of Findings

Contributions

Corporate Contributions

3.1 FFP reviewed the details surrounding all campaign contributions and can advise that there were no corporate contributions found in the campaign records or banking transactions.

Post June 30, 2011 Contributions

3.2 There were two (2) contributions deposited on August 2, 2011 totalling \$750.00 (one for \$250 and the other for \$500). Both cheques were dated pre-June 30th (May 3rd and June 30th respectively). These contributions were listed in the Supplementary Financial but without naming the contributors or providing their addresses. We were able to match the contributions to the contributor through the deposit slips, supporting cheques, and the contribution receipt.

3.3 The Supplementary Financial reflected these amounts as having been received prior to June 30, 2011.

Money Orders

3.4 We identified twenty-four (24) money orders including several that were sequential in nature. These contributions by money order totalled \$9,235.00, as shown in the attached Schedule 2 and detailed in the following paragraphs.

3.5 There were thirteen (13) Canada Post money orders spread over four (4) payment dates. The money orders on each payment date were found to be sequentially issued on that date. Canada Post money orders include sender name and address typed and integrated into the money order. We discussed the purchaser identification methods with a representative from Canada Post and noted that the sender's name has to match the identification shown by the purchaser. This implies that the contributor was present and was the purchaser of the money order and we have not received any information to the contrary.

3.6 There were two (2) sequential money orders purchased from Western Union and four (4) sequential money orders purchased from HSBC where the purchaser name is



handwritten and not typed into the money order. It was therefore not possible to verify with certainty that the contributor on record purchased the money orders.

- 3.7 Accepting the Western Union and HSBC money order contributions totalling \$2,310.00 may be an apparent contravention of Subsection 70(8) of the Act.
- 3.8 Five (5) money orders were not purchased sequentially. We concluded that the contributor listed on the money order and on the contribution receipt purchased the money order and therefore there is no apparent contravention of the Act.

Receipts Issued for Contributions from Joint Personal Bank Accounts

- 3.9 We identified sixty-six (66) instances where contributions were made by a contributor issuing a cheque that displayed two (2) individuals as apparent signatories to the account.
- 3.10 We noted that the following situations existed on the cheques with two (2) names noted as signatories:
- (a) A receipt was issued to the individual signing the cheque (twenty six (26) instances);
 - (b) A receipt was issued to the individual that did not sign the cheque but was noted as one of the signatories (ten (10) instances); and
 - (c) The signature was illegible and the appropriate recipient of the receipt could not be determined (thirty (30) instances);
- 3.11 The Act states under subsection 69(1)(e) that a candidate shall ensure that “receipts are issued for every contribution...”
- 3.12 The Guide states on page 39 that:

“Only one contributor can be listed on a receipt. If a cheque is from a joint personal bank account the receipt must have the name of the person who signed the cheque. If both contributors signed the cheque, the candidate must determine how much each person contributed and issue a separate receipt to each person.”

- 3.13 Those situations where the receipt was issued to an individual on a joint account but was not the signatory is an apparent financial reporting contravention.
- 3.14 Included in a deposit dated January 18, 2011 are two (2) cheques with identical signatures. One is a contribution for \$600 and is from a joint account in the name of



Joga Banwait and Darshan Banwait. The second is for \$300 and is from a joint account in the name of Joga Singh Banwait and Rajinder Banwait. The first has a contribution receipt issued in the name of Joga Banwait while the second is issued in the name Joga Singh Banwait. Both note the same address leading us to conclude that the contributor is one and the same and therefore he/she has contributed in excess of the \$750 limit (by \$150).

- 3.15 This was the only situation in which excess contributions were noted. Further, in all cases a receipt was issued to one or both of the signatories.

Other issues noted

- 3.16 The Applicant asserted that the Candidate improperly accepted a contribution of \$1,250, in excess of the \$750 contribution limit as set out in the Act. In the Supplementary Financial the *Contributions in Excess of \$100* annex includes as a last entry dated 6/30/11, a contribution of \$1,250 without any information regarding the contributor. We traced the contribution amount to the deposit slip and supporting cheques and confirmed that the amount is made up of two (2) amounts received from separate contributors – one for \$500 and the second for \$750. Each is therefore at or below the \$750 limit.
- 3.17 The second of the separate contributions was made by Mammoliti for \$750 for which a contribution receipt was not issued.
- 3.18 Four (4) contributions were not properly identified by name or address. We were able to match the contributions to the contributor through the deposit slips, supporting cheques, and the contribution receipt.
- 3.19 There were seventeen (17) contributions identified by name but absent the requisite address details.
- 3.20 There were eight (8) instances where the contribution receipt did not match the reporting in the Supplementary Financial. These are summarized in the following table:



Supplementary Financial	Contribution Receipt	Pre-printed name on the Cheque	Amount
Brian Feldman	Brian Brown ³	Brian Brown	\$ 500.00
Joseph Barnett	Joseph Barnett Feldman ⁴	Joseph Barnett Feldman	500.00
Pabita Champse	Pabitra Aditya	M&P Champsee	500.00
Franka Sardo	Eddy Sardo	Franca Sardo & Eddy Sardo	600.00
Evonne Tanzola	Gregory Tanzola	Evonne Tanzola & Gregory Tanzola	750.00
Jose Lambert	Dennis Lambert	Dennis Lambert & Susan Lambert	750.00
Allen Weinberg	Lynda Weinberg	Lynda Weinberg & Allen Weinberg	750.00
Darshan Banwait	Joga Banwait	Joga Banwait & Darshan Banwait	600.00

Expenses

3.21 The total expenses subject to the spending limit reported in the Primary Financial were **higher** than those reported in the Supplementary Financial by a total of \$227.18. The difference was due to:

- (a) Sign expense **decreasing by \$1,725.83** due to an accounting entry called “vendor’s refund” for \$1,600.83 and a \$125 sign deposit refund from the City of Toronto;

³ Both contributions (Brown and Feldman) were deposited in the same batch on June 15, 2011. One receipt was issued to Joseph Barnett Feldman of 190 Warren Road (receipt #03176) for a contribution of \$500.00 while the other receipt (#03175) was issued to Brian Brown of 82 Lawrie Rd for the same amount. We reasonably conclude that the Supplementary Financial reported the contributions as coming from Joseph Barnett (with no address reported) and from Brian Feldman of 190 Warren Road.

⁴ Ibid.

- (b) Sign expense **increasing by \$250.00** for a Municipal Licensing and Standards deposit to the City of Toronto; and
- (c) Brochures and Office expenses **increasing by \$832.07 and \$416.58** respectively due to late reimbursement of expenses incurred by campaign workers.

3.22 All references that follow pertain to both of the Financial Statements.

Campaign start date

- 3.23 Per Subsection 68(1)(1) of the Act, the election campaign period begins on the day he or she files a nomination for the office under Section 33. Mammoliti filed his nomination for Councillor on July 9, 2010. The Mayor nomination was withdrawn on the same date.
- 3.24 The Financial Statements reflect a start date of July 9, 2010; however Candidate's accounting entries assumed that the Councillor campaign did not commence until August 27, 2010. Any expenses incurred prior to that date were attributed to the aborted Mayoral campaign.
- 3.25 We considered a number of factors before determining the actual start date of the Councillor campaign, as follows:
- (a) Mammoliti advised that he was out of the country for the last few weeks in July 2010. FFP confirmed this information via a review of Mammoliti's American Express cards showing that he was in Europe as of July 10, 2010 and returned to Toronto on July 31, 2010;
 - (b) The first deposits into the Councillor bank account did not occur until mid-August 2010;
 - (c) Mammoliti was reimbursed by a cheque from the Councillor bank account dated August 30, 2010 for \$840.70⁵ for various restaurant receipts dated as early as August 2, 2010. There was no evidence of any earlier expense reimbursements;
 - (d) The initial disbursement from the Councillor bank account occurred on August 26, 2010 representing a bank charge for the ordering of cheques;

⁵ This \$840.70 represents 100% of the expense subject to limit item *Meetings Hosted* as per the Supplementary Financial.



- (e) The first cheque written on the account was dated August 26, 2010 for the vendor Rainbow Signs – invoice date August 27, 2010 with order date August 17, 2010; and
- (f) No campaign contributions in the month of July, 2010.

3.26 We concluded that August 1, 2010 is a more appropriate start date for the Councillor campaign and have adjusted the financial statements accordingly.

Allocation of shared expenses

3.27 The Financial Statements include certain expenses for services that were shared by both campaigns. For example, the Councillor campaign simply took over the rented commercial space from the Mayoral campaign and continued to use the communications equipment. Shared expenses were consistently paid for in full by the Councillor campaign and reimbursed (for its share) by the Mayoral campaign as evidenced by invoices issued by the Councillor campaign to the Mayoral campaign.

3.28 As set out below, there were five (5) such inter-campaign invoices totaling \$1,393.40, as follows:

Supplier	Description	Invoice #	Invoice \$	Allocated
Motion Tech	Invoice #10340 - Toner	100	\$ 254.25	\$ 83.90
Motion Tech	Invoice #10440 –phone/printer	101	1,508.55	502.20
Rent	Rent – based on \$1,356	102	1,356.00	406.80
Toronto Hydro	Based on \$930.92	103	930.92	279.28
Bell	Usage of fax line	110	404.06	121.22
		Totals	\$ 4,453.78	\$ 1,393.40

- 3.29 The allocation of expenses to Mayor was one-third of the total based on 5 hours out of a 15 hour workday for invoices #100 and #101. We noted that the allocation for Mayoral use was decreased for invoice #102, 103, and 110 to 30% based on an allocation of 4.5 hours out of 15.
- 3.30 Mammoliti advised that the allocations were based on the advice provided by Nayman. While we were unable to verify this with Nayman, our review of contributions to each of the campaigns in the August to October period supports the Candidate’s 70:30 split.



3.31 The lack of any contributions for the month of July further support our earlier conclusion that the Councillor campaign did not start until August. It can also be noted that neither campaign was active in the months of November and December.

Rent

3.32 The Applicant noted that the rental cost for the campaign office space at 2958 Islington Avenue was not included in the Financial Statements nor was there any expenses receipt or invoice included in the financial filing with the City of Toronto.

3.33 The lease agreement for office space at 2958 Islington Avenue was dated May 18, 2010 for the Mayoral campaign for a 4 ½ month term (June 15 through October 31, 2010) with a rent of \$1,200/month gross (\$1,356/month including HST).

3.34 A second lease agreement in the name of the Councillor campaign was dated August 26, 2010 for a term of August 27 to October 31, 2010 for the same rental payments.

3.35 We confirmed that, while there was no separate line item reporting the rent in the Financial Statements, the campaign accounting included rent expense of \$1,130.00 (net of \$406.80 in Mayoral re-imbursement) under *Office Expenses*.

3.36 We reviewed both the Mayoral and Councillor campaign bank records and accounting and noted that the June and July payments were charged appropriately (*Office expenses*) to the Mayoral campaign. Treatment for the post-July rent expenses and the FFP allocation is set out in the following Table;

Rental Period	Paid			Rent owed
	Mayor	Councillor	Totals	
August	-	181	181	1,356
September	407	949	1,356	1,356
October	1,356	-	1,356	1,356
Paid	\$ 1,763	1,130	2,893	4,068
Allocation	1,220	2,848	4,068	4,068
Owing	\$ (543)	1,718	1,175	

3.37 As discussed earlier, for September 2010, the Councillor campaign was reimbursed by the Mayoral campaign for \$406.80, based on a 30% allocation to the Mayoral campaign.

3.38 We noted that for August 2010, there was an underpayment of \$1,175.20 in the rental payments owing and that this amount corresponds with 27 days in August rent. The remaining 4 days equal to \$180.80 was paid from the Councillor bank account. We



reviewed the Mayoral records to ensure that this amount was not paid and as such, have considered this to be a contribution in kind from the Arnone Brothers of \$768.40, calculated as follows:

Expected rent for August	<u>\$ 1,356.00</u>
70% thereof	949.20
Less: paid and charged to Councillor campaign	<u>(180.80)</u>
Contribution in kind	<u>\$ 768.40</u>

3.39 On the basis that the Councillor campaign started on August 1st, the Councillor campaign rental expense owed to the Arnone Brothers would amount to \$4,068.00 (3 months @ \$1,356). Assuming that the Mayoral campaign consistently used 30% of the workday hours the Mayoral campaign should have reimbursed to the Councillor campaign \$1,220.40. The net amount that reasonably should have been expensed in the Councillor campaign therefore is \$2,847.60. The net expense recorded in the Financials Statements is only \$1,130 (\$1,536.80 less the \$406.80 reimbursement) and therefore there is an **understatement** of expenses subject to the limit of \$1,717.60.

Brochures on Loan

- 3.40 Included in the Supplementary Financial as an expense not subject to the spending limit (as an "Other" item) is a line item called "brochures on loan" for an amount of \$1,710.97. The Applicant referred to this line item as well and assumed it referred to an invoice from In-House Printing that was including in the filings⁶.
- 3.41 Our review supports the Applicant's assumption. The original invoice dated September 28, 2010 for \$4,710.97 was for 10,000 campaign brochures for the Mammoliti campaign. The attached brochure identifies that this is a campaign for Councillor. Payments were made on September 28, 2010 (\$2,000), October 20, 2010 (\$1,000) and March 12, 2011 (final payment of \$1,710.97).
- 3.42 The \$1,000 payment was classified as a *fundraising expense* in the Financial Statements (labeled as a Kealey & Associates consulting payment) while the \$2,000 payment was classified as an *advertising expense*. We agreed with the classification of the \$2,000 payment and concluded that the \$1,000 payment should also have been classified as *advertising expense*.

⁶ DePoe request for compliance audit submitted on December 28, 2011. His assumption had its basis in that it was the only invoice included in the Candidate filing with a similar ending.



- 3.43 The invoice was paid in full and we found no indications that the product supplied by In House Printing was returned or defective. As per subsection 67(1) of the Act, “costs incurred for goods or services by or on behalf of a person wholly or partly for use in his or her election are expenses.” We note that the Act does not differentiate between whole or partial use in its assessment of how much of the expense should be reported.⁷
- 3.44 The full amount of \$4,710.97 should have been included as an advertising expense consistent with the recording of the \$2,000 payment. Therefore, there is an **understatement** of expenses subject to the limit of \$2,710.97.

Suncor Energy Commercial Card

- 3.45 One (1) Suncor Energy commercial card was used by the Councillor campaign to pay for gasoline and related products at Sunoco stations. Ms. Palladino and Mammoliti advised that the card was secured at the campaign office, borrowed (and returned promptly), and used by several individuals, including Thoma Kllapi and Dan Leggieri, who were employed by the Councillor campaign solely for fundraising activities.
- 3.46 Two (2) payments were made from the Councillor campaign for this account totalling \$3,416.94. The first was a payment by cheque of \$1,500 which was processed by the bank on December 23, 2010. The second payment was by cheque for \$1,916.94 and was processed by the bank on January 25, 2011. This last payment matched the balance owing on the December 31, 2010 statement from Suncor.
- 3.47 The Suncor invoicing for the months of November and December 2010 indicate that there was no usage of the card after October 31, 2010. The invoiced amount (remaining balance of \$1,916.94) thus was applicable to the pre-election period.
- 3.48 The campaign did not account for the Suncor expense consistently. The first payment of \$1,500 was included in the Supplementary Financial as an *Office expense* (subject to the limit) while the second and final payment of \$1,916.94 was included as a fundraising expense (not subject to the limit). The \$1,916.94 was included in the unnamed and undated Schedule 2 Fundraising Function (reporting total expenses of \$17,196.94).
- 3.49 As no log was kept of who used the card and for what purpose, it is difficult to verify that the card was used exclusively by individuals in fundraising activities. We have been advised that the commercial card was not solely used by the two individuals employed solely for fundraising.

⁷ As elaborated on in the Municipal Elections 2010 Guide, page 31-32.



Reimbursements to Mammoliti and American Express Card

3.50 Mammoliti made use of his personal American Express Card (“AMEX”) to pay for a number of Councillor campaign expenses. We referenced and identified six (6) cheques totalling \$11,620.37 made out from the Councillor campaign to Mammoliti as reimbursements but only four (4) of these payments totalling \$7,436.04 could be traced to the Financial Statements as expenses. The remaining \$4,184.33 was accounted for as an Accounts Receivable. The relevant transactions are summarized in the table below:

Campaign cheque #	Amount	Expenses reported	Category
28	\$2,803.97	\$2,803.97	<i>Advertising expense</i>
31	2,800.00	2,800.00	<i>Signs</i>
32	1,000.00	1,000.00	<i>Signs</i>
60	3,000.00	-	
62	1,184.33	-	
69	832.07	832.07	<i>Brochures expense</i>
Total paid to Mammoliti	\$11,620.37	\$7,436.04	
Difference		\$4,184.33	<i>Accounts receivable</i>

3.51 Ms. Palladino and Mammoliti advised that the intended procedure was for Mammoliti to be reimbursed for each campaign expense charged on the AMEX card. While some charges were reimbursed in that fashion, most reimbursement was done in gross amounts without reference to any specific AMEX charges. As a result, the campaign records disclosed that Mammoliti was over-reimbursed \$4,184.33 (included in *Accounts receivable* in the Supplemental Financial).

3.52 The over-reimbursement of \$4,184.33 is referred to in the campaign auditor’s supporting documentation as part of the receivable owing from the Mayoral campaign, whereas the over-payment was made to Mammoliti personally. While we have not seen any evidence of repayment, we did note a matching amount shown on the Mayoral campaign Supplementary Financial statement as “*Other liabilities*”. This implies that the expenses for which Mammoliti was reimbursed were reported as Mayoral expenses and reimbursed by the wrong campaign. Rather than having Mammoliti reimburse the Councillor campaign and in turn have the Mayoral campaign reimburse him, the campaign auditor has recorded the Mayoral liability as being to the Councillor campaign. We accept that Mammoliti has not received a personal benefit through this process and that it is not an apparent contravention of the Act.

Rogers Wireless and Cable Expenses

- 3.53 The Councillor campaign continued to use the Rogers account that was opened in the name “Giorgio Mammoliti in care of: Mayoral Campaign”, so it was difficult to accurately attribute the invoiced amounts to each campaign. The following invoices are addressed in this section:

Period end	Amount due	Finding
Oct 12 2010	\$ 1,661.14	<i>not found to be paid or expensed in Councillor campaign</i>
Dec 12 2010	1,397.47	<i>included as a post polling expense (not subject to limit)</i>
Jan 12 2011	669.65	<i>included as phone/internet expense</i>

- 3.54 The October 12, 2010 invoice for \$1,661.14 consisted of \$803.07 for the current period (1 month) and \$858.07 for the period (1 month) ended September 12, 2010.⁸ The amount was not paid from either the Mayoral campaign or the Councillor campaign bank accounts. The invoice was paid in full on November 2, 2010 using the personal American Express card of Mammoliti. A written submission by Counsel⁹ on behalf of Mammoliti states that cell phones were not used by the Mayoral campaign in the month ended October 12, 2010. On this basis, the full amount for the Rogers account is an expense of the Councillor campaign and should be included in the Financial Statements. Therefore, the Financial Statements expenses subject to limitation is **understated** by \$1,661.14.
- 3.55 The December 12, 2010 invoice for \$1,397.47 is included as a *post-polling expense* but only a portion should apply to that period. The invoiced amount consists of \$784.48 for the current period (Nov 13-Dec 12) and \$612.99 for the prior period (Oct 13-Nov 12). The portion of the latter amount to October 25, 2010 should have been recorded as a campaign expense and this pro-rated amount has been calculated as \$257 (13/31 of \$612.99). The expenses subject to limitation is therefore **understated** by \$257.
- 3.56 The January 12, 2011 invoice is incorrectly recorded as an expense subject to the limit since it is incurred for a period **after** the October 25, 2010 election day. The expenses subject to the limit are therefore **overstated** by \$669.65.

⁸ The prior one month period ended August 12, 2010 was for \$3.98 and therefore we can conclude that the period ended September 12th did not have a prior month balance included.

⁹ (January 25, 2011) Submission from Jack Siegel, Blaney McMurtry LLP, submission on behalf of candidate Giorgio Mammoliti (EA.New.EA9.1.7), page 10 (table).



3.57 The Councillor campaign also had cable TV and internet services provided by Rogers but the Financial Statements did not record this expense. A Rogers bill for \$706.69 for an extended period ended Oct 11, 2010 was paid using the personal American Express card of Mammoliti. The current portion (1 month) of this bill amounted to \$163.84. A review of prior billings indicated that the monthly payment was consistently \$163.84. Extrapolating this over the campaign period (August 1st through October 25th) implies an expense subject to the limit **understatement** of \$459.81.¹⁰

Motion Technology Solutions – rental of IT equipment

3.58 The Mayoral campaign rented 6 Cisco telephone sets and a Lexmark printer/copier for \$632.80 per month that were used in both the Mayoral and Councillor campaigns.

3.59 For the month of July 2010 the invoicing showed the addition of an HP printer and that work was performed to allow for additional phones (Linksys). The 4 additional phones were functional as of August 18, 2010 per the invoicing from Motion Technology. The first full month invoicing including the additional phones and printer shows a monthly charge of \$1,508.55 over and above the \$632.80 prior monthly invoicing.

3.60 Below is a summary of the Motion Technology invoices for the period beginning of June through October 31, 2010:¹¹

Period	Invoice #	Amount	Paid by	Details
June	9379	\$ 632.80	Mayoral	Expensed by Mayoral campaign
July	9648	2,187.68	AMEX	Not expensed nor reported by Councillor campaign
Aug 1-26	9648	1,072.77	AMEX	Not expensed nor reported by Councillor campaign
Aug 27-31	10123	684.90	AMEX	Not expensed nor reported by Councillor campaign
September	10123	2,015.75	AMEX	Not expensed nor reported by Councillor campaign
October	10440	1,508.55	Councillor	Split between the 2 campaigns

3.61 We found that invoices #10123 and #9648 totalling \$5,961.10 included duplicate charges for the period August 1 to 26, 2010. The campaign therefore was invoiced and overpaid Motion Technology \$479.67.¹²

¹⁰ Fixed monthly payment of \$163.84 for each of August and September plus 25/31th for October.

¹¹ It was beyond our scope to verify whether the invoices attributable to the Mayoral campaign were expensed properly in its respective financial reporting.



- 3.62 Mammoliti only expensed and accounted for the October rental payment of \$1,508.55 in the Financial Statements (as *office expense*). The Councillor campaign invoiced the Mayoral campaign \$502.20 for its shared usage, leaving a net expense of \$1,006.35 reported in Councillor Financial Statements.
- 3.63 “Mayoral” is noted on the July/August invoice (#9648) indicating that the intent was to record 100% of this expense this period in the Mayoral campaign. It explains why the invoice was not accounted for in the Councillor campaign. The notations found on the August/September invoice (#10123) indicated that the intent was to split the cost with the Councillor campaign based on Mayoral usage of 5 hours out of a 15 hour workday (1/3) plus 50% of the fundraising allocation (4.5 hours out of 15 hours or 30%). The notation is that this allocation would result in a Councillor expense allocation of \$1,699.13 and a Mayoral allocation of \$1,001.51.
- 3.64 We held discussions with Ms. Palladino and understand that the printer and telephones were used for both campaigning and fundraising activities. Consistent with the allocation between Mayoral and Councillor campaigns, we feel that a further 70:30 allocation of these expenses between the two activities is a reasonable estimate. Accordingly, the table below, in our opinion sets out the FFP allocation of the invoices for all time periods subsequent to July 31, 2010. The basis used was:
- (a) Attribute 30% of the cost to the Mayoral campaign and 70% to the Councillor campaign: and
 - (b) Further attribute 30% of the Councillor campaign costs to Fundraising activities.

Period	Invoice #	Total	Mayoral	Councillor Allocation	
				Campaign	Fundraising
August 1 - 26	9648	\$1,072.77	321.83	525.66	225.28
August 27 - 31	10123	684.90	205.47	335.60	143.83
September	10123	2,015.75	604.72	987.72	423.31
October	10440	1,508.55	452.56	739.20	316.79
Totals		\$5,231.97	1,584.58	2,588.18	1,109.21
Overcharge		(\$479.67)	(143.90)	(235.04)	(100.73)
Previous			502.20	1,006.35	0.00
Adjustment			\$ 938.48	1,346.79	1,008.48

¹² An HP Printer charge of \$398.39 for the period August 1-26, 2010 plus a Linksys telephone set charge of \$81.28 for the period August 18-26, 2010.



3.65 On this basis, and assuming an August 1st campaign start date, the Financial Statements are **understating** expenses subject to the limit (categorized as *office expense*) by \$1,346.79.

Printing costs paid via American Express

3.66 Our review of the personal Mammoliti American Express Card statements identified three (3) printing-related charges. One was for charges from Sign-A-Rama for \$4,817.19 (September 2, 2010) and the other two were from In-House Printing - \$2,803.97 (August 31, 2010) and \$615.85 (September 14, 2010).

3.67 The Councillor campaign reimbursed Mammoliti for the In-House charge of \$2,803.97. The Financial Statements correctly accounted for it as an expense subject to limit by including it as *Advertising expense*.

3.68 The In-House charge for \$615.85 was for brochures for the “Re-Elect Mammoliti” campaign. Notations on the invoice indicated that it was to be allocated 100% to the Councillor campaign. We did not locate this expense in the Financial Statements.

3.69 We followed up with Sign-a-Rama as to the \$4,817.19 and inquired as to what was printed and delivered. The printing proofs provided by the vendor indicated that some of the printing related clearly to the Councillor campaign, including \$800.00 for Candidate cards for “Re-Elect Mammoliti” and \$600 for Ward 7 maps. The “re-elect” wording was for the Councillor campaign, as the Mayoral campaign was not for re-election. We were unable to locate these expenses in the Financial Statements. We concluded that the remaining balance of the invoice (\$3,235.19 tax inclusive) was incurred for the Mayoral campaign.

3.70 However, the Financial Statements include a *Signs* expense of \$3,800.00 reflecting two reimbursement cheques written to Mammoliti from the Councillor campaign bank account (\$1,000 clearing on October 14, 2010 and \$2,800 clearing on October 13, 2010). Neither reimbursement was referenced to any specific payment made via the American Express Card or any other expense incurred by Mammoliti and submitted for reimbursement.

3.71 We concluded that a portion of the Sign-A-Rama invoice totaling \$1,582.00 (including tax) and the In-House invoice for \$615.85 should have been included as a sign or brochure expense for a total understatement of expenses subject to the limit of \$2,197.85. We attributed the \$3,800 reimbursement to Mammoliti as a partial accounting for these expenses. The resulting calculation is a net overstatement of expenses subject to the limit of \$1,602.15.



Stitch to Work invoice

- 3.72 Invoice #228 from Stitch to Work for \$3,390.00 dated August 18, 2010 was paid from the Councillor campaign bank account on September 4, 2010. This amount was subsequently reallocated to the Mayoral campaign and recorded as a receivable owing from the Mayoral campaign. Ms. Palladino advised that this payment was made from the Councillor campaign in error and that there were no jackets available during the Councillor campaign.
- 3.73 FFP contacted the vendor, who confirmed that the order date was August 10, 2010 and the jackets were picked up on August 16, 2010. The order was for the printing of "TEAM MAMMOLITI" on the front and back of 100 jackets. However, she also advised that the order was placed by the Mayoral campaign, which is inconsistent with the date that campaign was aborted.
- 3.74 The Mayoral campaign placed two orders with Stitch to Work. The first invoice #228 was dated February 1, 2010 for \$2,542.50 and was for 75 jackets. The second invoice #528 was dated March 2, 2010 for \$1,695.00 and was for 50 jackets. The cost for these 125 jackets was reported in the Mayoral campaign as an allocation to *advertising* expense.
- 3.75 The invoice # for the February and August invoices was identical, suggesting that there may in fact be a connection. The vendor responded that the August invoice number was assigned in error and that the correct invoice number was #468. The vendor checked her paper records and verified to FFP that there were three (3) invoices issued to Mammoliti and that each was a stand-alone order. The vendor further noted that the August order was a rush order and was produced in 1 week as opposed to the typical 2 to 3 week turnaround. The vendor confirmed that printing 100 jackets in a five (5) day span is feasible as she had printed 100 jackets in one day on occasion.
- 3.76 The vendor advised that she did not carry any inventory on hand and provided FFP with an invoice from her supplier dated August 13, 2010 for the 100 jackets.
- 3.77 The August order and delivery dates are consistent with the kick-off of the Councillor campaign. We concluded that the expense was incidental to fundraising and is more consistent with an expense incurred to raise public awareness, consistent with the Candidate's accounting for similar expenses in his Mayoral campaign. The expenses subject to limitation are therefore **understated** by \$3,390.00 (*advertising* expense).



Bell Fax invoice

- 3.78 The Councillor campaign used the same single Bell fax line used by the Mayoral campaign. There was no account change made commensurate with the transition between the two (2) campaigns.
- 3.79 Two (2) payments were made to Bell between July 1, 2010 and June 30, 2011. The first payment for \$475.16 was made from the Mayoral campaign bank account on October 7, 2010 representing three (3) billing periods ending June 25th (\$119.01), July 25th (\$193.70) and August 25, 2010 (\$162.45).
- 3.80 The \$162.45 portion of the invoice should have been considered in part as an expense incurred during the Councillor campaign. Using a similar 70:30 allocation for other shared expenses that overlapped the two (2) campaigns, expenses subject to limitation are **understated** by \$91.73.¹³
- 3.81 The second payment was made from the Councillor campaign account in June 2011 for \$404.06. We assumed the payment was for subsequent period(s) commencing August 26, 2010. 30% of this invoice was reimbursed by the Mayoral campaign, which we accept.
- 3.82 The second invoice was included in the Supplementary Financial as a fundraising expense and therefore not subject to the expense limit. It was accounted for as 'Schedule 2 – Fundraising Function' dated June 25, 2011, description, "Dinner" as a component of the line item *Event Advertising*. Considering the time period the invoice covered, it is unreasonable to associate the usage of the fax line to a specific fundraising event held in June 2011. In our opinion, the Supplementary Financial expenses subject to limitation are **understated** by \$282.84 (\$404.06 less the \$121.22 reimbursed by the Mayoral campaign).

Fundraising expenses for undated and unidentified event

- 3.83 The first page entry on Schedule 2 in the Financial Statements was a summary of an undated and unidentified event. Included as an entry under *Part II – Other Revenue Deemed a Contribution* is a line item for \$26,475 called "Contributions received as a result of fundraising activities."
- 3.84 Counsel addressed the issue of reporting an undated and unidentified fundraising event in his response to the Application by Jayme Turney. Per Counsel, and supported by

¹³ Period from July 26th to July 31, 2010 was considered Mayoralty. Calculation based on 70% of the \$131.04 August portion.



the campaign auditor Nayman,¹⁴ this represented a summary of seven (7) non-ticketed fundraising events held where an effort was made to approximate the contributions which were collected in the days immediately following the event. Per Nayman, *“the fundraising at the events was in the form of suggested donations which were often received before, during and after the event.”*¹⁵ The total of these contributions was the \$26,475.00 reported.

- 3.85 On September 13, 2010, the Councillor campaign entered into a \$7,780 consulting agreement with Ready Set Win, a division of Kealey & Associates, to *“advise the client on best practices to maximize fundraising and provide primarily fundraising support. The consultant will also advise the client on best practices to manage his/her election campaign leading up to the October 2010 election.”* The term of the agreement was from September 13 to October 26, 2010.
- 3.86 The seven events noted and linked by Nayman to the contributions were dated August 20 to October 13, 2010. No fundraising expenses were recorded or incurred with respect to hosting these events.
- 3.87 Related expenses of \$17,196.94 were reported and were comprised of: Salaries (\$7,500), Consultation (\$7,780) and a non-described expense (\$1,918.94). Based on the documentation reviewed, the last item relates to a payment to Suncor for gas expenses, as discussed earlier in detail in paragraphs 3.46 to 3.50.
- 3.88 Ready Set Win is described on their website as election specialists, with its principals listed as Marc Kealey (**“Kealey”**) and Darryn McArthur, *“a seasoned team with over 30 years experience in providing campaign advice to prime ministers, premiers, mp’s, mpp’s and municipal candidates.”* We asked Mammoliti why this consulting firm was used and were told that because the campaign started so late, due to the Mayoral campaign, the campaign needed to catch up on fundraising. Mammoliti advised that the consultants were solely used for fundraising – they planned and organized fundraising events and made fundraising phone calls.
- 3.89 We contacted Kealey and were advised that the consulting services of Tony Genco (**“Genco”**) were provided to the campaign as a full-time campaign manager and he was on-site for the duration of the campaign. A second consultant was expected to service the campaign to fundraise but this individual did not work on the campaign.

¹⁴ Bernard Nayman letter to Counsel dated July 18, 2011

¹⁵ Ibid.



- 3.90 We interviewed Genco, who advised that he worked full-time for the campaign for seven (7) weeks until October 24, 2010¹⁶ and that he worked on fundraising activities and had no involvement with managing the campaign.
- 3.91 We conclude that the consulting fees paid to Ready Set Win were for fundraising and were properly recorded as a fundraising expense.
- 3.92 The salary expenses (\$7,500) were traced to bi-monthly invoices for services performed by Dan Leggieri and Thoma Kllapi. Total salary expense from these two individuals plus consulting fees allocated to fundraising was actually \$18,280 but an accounting entry allocated \$3,000 of these expenses to the Mayoral campaign (included as an accounts receivable in the Supplementary Financial).
- 3.93 FFP has not seen any promotional materials that would suggest that any fundraising events were actually held during the period described above by Nayman. We concluded that the expenses incurred are more indicative of direct solicitation initiatives rather than specific events and that the contributions received were as a result of these initiatives.

Momentum invoice paid using Mammoliti AMEX

- 3.94 A \$2,000 charge dated November 2, 2010 on Mammoliti's AMEX from Momentum BPO Inc was not included in expenses in the Financial Statements nor referenced in the supporting documents provided for the audit. It was only visible as an un-redacted charge on the AMEX statements included in the supporting documents provided for the Mayoral campaign.
- 3.95 FFP contacted the vendor, who advised that Momentum BPO licenses a software package called CivicTrack to election campaigns who then utilize the software to manage their voter files, track support, and track lawn signs, amongst other things. The Mayoral campaign contracted for a license, as evidenced by an invoice dated April 11, 2010 for \$10,000.00.
- 3.96 The vendor confirmed that only \$4,500 was paid by the Mayoral campaign on the basis that the campaign ended prior to election date. On that basis, we concluded that there was no attribution of the original contract to the Councillor campaign.
- 3.97 The vendor further advised us, and supplied the corresponding invoice, that the Councillor campaign licensed CivicTrack software. An invoice dated July 27, 2010 for

¹⁶ The Liberal Party announced on October 24, 2012 that Tony Genco was their candidate for the Federal by-election in Vaughan Ontario held on November 29, 2010. Genco confirmed that this is why his work for the Mammoliti campaign ended on October 24th.

\$2,000.00 was addressed to “Mammoliti Councillor Ward 7”. Ms. Palladino advised that the software had been used by the Councillor campaign and that it had multiple uses: i.e. calling voters; sending out information; fundraising; “get out to vote” on Election Day.

- 3.98 FFP has adopted a similar treatment as to the earlier Motion Tech invoices and accordingly, has allocated 30% of the expense to Fundraising.
- 3.99 We determined that the expenses subject to limitation (*Office expenses*) in the Financial Statements are **understated** by 70% of \$2,000.00, or \$1,400.00.

Journal entries reported in the Financial Statements

- 3.100 *Sign expenses* were reduced by \$1,600.83 and were described in the accounting working paper as “Vendor’s refund”. The campaign auditor provided details that allowed us to identify the amount as relating to three (3) deposits received by the campaign from Rogers Cable, Enbridge and Toronto Hydro respectively, representing account closing refunds, and two (2) cash deposits received by the campaign from the Mayoral campaign bank account. All of these refunds were reported in the Financial Statements as either *Office expense* or *Phone expense* but because these categories are also subject to limitation we did not consider this a reporting contravention. The two (2) cash deposits received from the Mayoral campaign totalled \$1,393.40 (\$1,272.18 and \$121.22) and are supported by the five (5) inter-campaign invoices discussed in paragraph 3.28.
- 3.101 *Office expenses* were reduced by \$2,635.56. We questioned Nayman and were referred to a multi-column document which included nine (9) entries totalling \$2,635.56. Four (4) of the entries totalling \$1,272.18 were already included in the journal entry reducing *Sign expenses*, as discussed above, and therefore this reduction in expenses is duplicated. The remaining five (5) entries could not be reconciled to an expense recorded in the Financial Statements. The documentation and explanations provided were not persuasive and, accordingly, we concluded that the expenses subject to the limitation are **understated** by \$2,635.56.

Financial Reporting

- 3.102 In the Primary Financial the *bank charges* and *advertising* expenses are reported as \$4,919.23 and \$192.71 respectively. The amounts should have been reversed and the correct expense amounts are reported in the Supplementary Financial.
- 3.102 FFP has identified a number of other apparent financial reporting contraventions and as these have been discussed throughout the previous paragraphs in section 3 of this report, they have not been repeated here.



4 Restrictions and Limitations

- 4.1 This Report was prepared for the City of Toronto in relation to the compliance audit regarding the 2010 Councillor election campaign finances of Giorgio Mammoliti requested by the Compliance Audit Committee. This report is not to be used for any other purpose and we specifically disclaim any responsibility for losses or damages incurred through use of this Report for a purpose other than as described in this paragraph.
- 4.2 Although we reserve the right, we will be under no obligation to review and/or revise the contents of this Report in light of information which becomes known to us after the date of this Report.
- 4.3 This Report is respectfully submitted by Bruce Armstrong of FFP and Glen R. Davison. We were assisted in the compliance audit by Mark Vandertoorn of FFP.

Yours truly,

A large, stylized handwritten signature in black ink, appearing to be 'Bruce Armstrong'.

Bruce Armstrong, FCA, CFE
Managing Director
Froese Forensic Partners Ltd.

A handwritten signature in black ink, appearing to be 'Glen R. Davison'.

Glen R. Davison, CA
License #5774

SCHEDULE 1

Giorgio Mammoliti
Adjustments to the Supplementary Financial Statement
for the period July 9, 2010 to June 30, 2011 incl.

Box C: Statement of Campaign Period Income and Expenses

	As Filed	Adjustments		As Adjusted
		Adjustment #	Amount	
Income				
Contributions from candidate	\$ -	1	750.00	750.00
All other contributions	86,585.00	1, 2, 3	(3,210.00)	83,375.00
Other	100.00	4	768.00	868.00
Total Campaign Period Income	86,685.00		(1,692.00)	84,993.00
Expenses Subject to Spending Limit				
Advertising	4,919.23	5, 11, 12	4,499.00	9,418.23
Bank Charges	192.71		-	192.71
Brochures	832.07		-	832.07
Meeting hosted	840.70		-	840.70
Nomination filing fee	100.00		-	100.00
Office Expenses	5,705.06	4, 15	4,353.00	10,058.06
Phone and/or Internet	1,349.32	6, 7, 8, 9, 10, 13, 14	4,830.00	6,179.32
Signs	11,909.00		-	11,909.00
Sub-total	25,848.09		13,682.00	39,530.09
Expenses Not Subject to Spending Limit				
Accounting and Audit	4,181.00		-	4,181.00
Costs of fund-raising function	33,539.62	5, 10, 14	608.00	34,147.62
Expenses related to compliance audit	10,801.21		-	10,801.21
Other	3,202.44	5, 7, 8	(1,298.00)	1,904.44
Sub-total	51,724.27		(690.00)	51,034.27
Total Campaign Period Expenses	77,572.36		12,992.00	90,564.36
Excess (Deficiency) of Income over Expenses	\$ 9,112.64		(14,684.00)	(5,571.36)
Campaign Expenses Subject to Limitation				
From Line 1 of BOX B	\$ 27,464.65			27,464.65
Expenses previous and as adjusted	25,848.09		13,682.00	39,530.09
(Over) Under the Limit	\$ 1,616.56		(13,682.00)	(12,065.44)

SCHEDULE 2

Giorgio Mammoliti
Summary of Money Orders
for the period July 9, 2010 to June 30, 2011 incl.

Date	Issuer	Branch	Tx Number	Amount	Contributor
2010					
15-Sep	Western Union	RBC Main Branch	59-002087122	\$ 500.00	Vince Rowe
15-Sep	Western Union	RBC Main Branch	59-002087123	500.00	Tracey Graves
4-Oct	BMO	Jane & Langstaff	360705	750.00	Marco Ricchio
7-Oct	Canada Post	103421	1096490718	500.00	Alexander Koumoudouros
7-Oct	Canada Post	103421	1096490727	500.00	Socrates Telios
7-Oct	Canada Post	103421	1096490736	500.00	Irv Cooper
7-Oct	Canada Post	103421	1096490763	500.00	Mary Marciano
12-Oct	HSBC	693 Wilson Ave	307538	100.00	Gino Falbo
22-Dec	RBC	3300 Hwy 7	43137790	750.00	Tony Tortera
2011					
14-Jan	Canada Post	103421	1110238398	225.00	Alexandra Koumoudouros
14-Jan	Canada Post	103421	1110238407	225.00	Nina Koumoudouros
14-Jan	Canada Post	103421	1110238416	225.00	Scott Kurtzman
15-Jan	Canada Post	103421	1110238497	225.00	Socrates Telios
15-Jan	Canada Post	103421	1110238506	225.00	Clive Didier-Serre
15-Jan	Canada Post	103421	1110238515	225.00	Lisa Adams
15-Jan	Canada Post	103421	1110238524	225.00	Mary Marciano
14-Apr	TD	2472 Lakeshore	56345066	250.00	Salvatore Rosso
14-Apr	BMO	863 Brown's Line	067755	500.00	Rocco Chiapetta
15-Apr	HSBC	4500 Hwy 7	311371	250.00	Sandro Martire
15-Apr	HSBC	4500 Hwy 7	311372	500.00	Domenic Salvatore
15-Apr	HSBC	4500 Hwy 7	311373	300.00	Nick Cirella
15-Apr	HSBC	4500 Hwy 7	311374	260.00	Andrew Galloro
13-Jun	Canada Post	103421	1124159058	500.00	Spiro Koumoudouros
13-Jun	Canada Post	103421	1124159067	500.00	Mary Koumoudouros
				\$ 9,235.00	

APPENDIX A

What the Act & Guide say about Financial Records and Reporting Re: Giorgio Mammoliti

What the Act and Guide Say about Contributions

- 1.1 Where a contribution is made or received in contravention of the Act, paragraph 69(1)(m) requires that the contribution be returned to the contributor "*as soon as possible after the candidate becomes aware of the contravention*". Paragraph 69(1)(n) also requires that a contribution not returned to the contributor is paid to the City Clerk.
- 1.2 Subsections 70(1) and 70(2) of the Act provide that a contribution should only be made to or accepted by a candidate within his or her election campaign period.
- 1.3 Subsection 70.1(1) of the Act states that "*the City of Toronto may by by-law prohibit a corporation...or a trade union...from making a contribution to or for any candidate for an office on city council.*" The City of Toronto passed by-law 1177-2009 prohibiting contributions from corporations or trade unions to or for candidates running for an office on Toronto City Council.
- 1.4 In the section "Before Election Day" under the heading "Accepting Campaign Contributions" (page 39), the City of Toronto 2010 Municipal Election Candidate's Guide includes that any contribution over \$25 must be made by cheque, money order or credit card. On the same page under the heading "Receipts for Contributions," it specifies that "*If a cheque is from a joint personal bank account the receipt must have the name of the person who signed the cheque.*"
- 1.5 Subsection 70(8) of the Act does not permit contributions of cash in excess of \$25 to be either made by contributors or accepted by the candidate.
- 1.6 Subsection 71(1) of the Act does not permit a contributor to make contributions exceeding a total of \$750 to any one candidate in an election.
- 1.7 Subsection 66(2)(ii) of the Act states that "*the value of services provided voluntarily, under the person's direction, by an employee whose compensation from all sources for providing them does not exceed the compensation the employee would normally receive for the period the services are provided.*"
- 1.8 Subsection 66(2)(iii) of the Act states that if "*goods or services used in a person's election campaign are purchased for less than their market value*" then the difference between amount paid and market value is considered a contribution.

What the Act and Guide Say about Expenses

- 1.9 Subsection 67(1) of the Act states that “*costs incurred for goods and services by or on behalf of a person wholly or partly for use in his or her election campaign are expenses*” [underlining added].
- 1.10 Item 1 of subsection 67(2) states that the replacement value of goods brought forward from a previous election and used in the current election are expenses.
- 1.11 Item 2 of subsection 67(2) states that expenses include “*the value of contributions of goods and services*”. Accordingly, any contribution of goods or services is also a campaign expense of the same amount.
- 1.12 In the section “Before Election Day” of the City of Toronto 2010 Municipal Election Candidate’s Guide under “Definition of a campaign expense” (page 45), it states: “*Any expense incurred in whole or in part for goods or services for a candidate’s campaign is considered a campaign expense. It includes...any contribution of goods or services during the campaign period.*”
- 1.12 In the same section of the City of Toronto 2010 Municipal Election Candidate’s Guide under “Campaign inventory” (page 45), it states: “*All materials from a previous campaign that are brought into the current campaign must be included in the opening inventory. In valuing campaign materials, the candidate should use the current market value.*”

What the Act and Guide Say about Financial Reporting

- 1.13 Subsection 69(1) of the Act, under the heading “Duties of candidate”, requires candidates to:
- 1) Open one or more bank account in the name of the candidate’s election campaign exclusively for the purposes of the election campaign (69(1)(a));
 - 2) Deposit all contributions into campaign bank account(s) (69(1)(b));
 - 3) Make all payments of expenses from the campaign bank account(s) other than the nomination filing fee (69(1)(c));
 - 4) Value all contributions of goods and services (69(1)(d));
 - 5) Issue receipts for every contribution (69(1)(e));
 - 6) Retain receipts for all expenses (69(1)(g) and (h)) for the term of office of the members of council or until their successors are elected;
 - 7) Make financial filings in accordance with sections 78 and 79.1 (69(1)(k)); and
 - 8) Provide proper direction to those authorized to incur expenses and accept or solicit contributions on behalf of a candidate (69(1)(l)).

- 1.14 Subsection 78(1) of the Act, under the heading “Financial Statement and Auditor’s Report”, states that *“on or before 2 p.m. on the filing date, a candidate shall file with the clerk with whom the nomination was filed a financial statement and auditor’s report, each in the prescribed form, reflecting the candidate’s election campaign finances”*.
- 1.15 In the section “After Election Day” under the heading “Financial Statement” (page 77), the City of Toronto 2010 Municipal Election Candidate’s Guide states that it is the responsibility of the candidate to ensure they file a complete and accurate financial statement on time.
- 1.16 Candidates are required to sign a ‘Box F: Declaration’ in the Financial Statements. By signing, the candidate *“hereby declare[s] to the best of my knowledge and belief that these financial statements and attached supporting schedules are true and correct.”*

What the Act and Guide Say about Offences, Penalties and Enforcement

- 1.17 Subsection 89(h) of the Act states that *“A person is guilty of an offence if he or she furnishes false or misleading information to a person whom this Act authorizes to obtain information.”*