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**REPORT TO COUNCIL**  
**ON AN INQUIRY INTO CONTRIBUTIONS**  
**BY LOBBYISTS TO A**  
**FUNDRAISER FOR A MEMBER OF COUNCIL**

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LOBBYIST REGISTRAR

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# Inquiry into Contributions by Lobbyists to a Fundraiser for a Member of Council

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## INTRODUCTION

The Lobbyist Registrar conducted an inquiry into contributions made by lobbyists to a fundraising event held for the benefit of a member of Council on May 22, 2013. The Lobbyist Registrar conducted this inquiry to determine whether lobbyists contributed to the fundraiser in breach of the Lobbying By-law. In this report, the Lobbyist Registrar finds that four lobbyists breached §§ 140-42A and 140-45B of the Lobbying By-law, which provide:

*Section 140-42*

- A. *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.*

*Section 140-45*

- B. *Lobbyists shall not place public office holders in a conflict of interest or in breach of the public office holders' codes of conduct or standards of behaviour.*

The Registrar has advised the lobbyists not to lobby the councillor for whose benefit the contributions were made, in order to prevent placing the councillor\* in a further conflict of interest, and has requested them to attend training in the Lobbying By-law provided by the Office of the Lobbyist Registrar (OLR).

This report is made to Council as it is necessary in the public interest to do so. Contributions by lobbyists to the fundraiser\* were serious breaches of the Lobbying By-law, even though they were not intended and were induced by the letter of invitation that was sent to them. This type of breach goes to the foundation of the integrity of City government decision-making. Transparency is required to restore public trust in City government. The public and public office holders have the right to know what happened and how this situation has been addressed.

Consequent to Council's request that independent advice be obtained on referral of the Integrity Commissioner's report regarding this matter to the police, the Registrar shall provide a copy of this report to the Metropolitan Toronto Police Force.

**\*Note:** In this report, "fundraiser" refers to the fundraising event held on May 22, 2013 for the benefit of a member of Council; "councillor" refers to the member of Council for whose benefit the fundraiser was held; and "event organizer" refers to the company that organized and held the fundraiser, including issuing invoices and receiving cheques from the contributors named in this report.

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## **FINDINGS**

1. Ralph Lean, a registered lobbyist, contributed \$1,000 to the fundraiser by cheque dated May 22, 2013 from Mr. Lean's law firm, contrary to §§ 140-42A and 140-45B of the Lobbying By-law.
2. Sheldon Libfeld, a registered lobbyist, contributed \$10,000 to the fundraiser by cheque dated May 3, 2013 from Oakdale Village Homes Inc., contrary to §§ 140-42A and 140-45B of the Lobbying By-law.
3. Luigi Santaguida, a registered lobbyist, contributed \$5,000 to the fundraiser by cheque dated May 23, 2013 from TF Business Consultant, contrary to §§ 140-42A and 140-45B of the Lobbying By-law.
4. Medallion Developments Inc. (corporately registered as Medallion Corporation), a registered lobbyist and client of registered consultant lobbyists, contributed \$7,500 to the fundraiser by cheque dated June 28, 2013, contrary to §§ 140-42A and 140-45B of the Lobbying By-law.

## **DISPOSITION**

1. The Registrar advises the lobbyists named in this report and their representatives not to lobby Councillor Giorgio Mammoliti during the current term of Council, in order to prevent placing the member of Council in a conflict of interest contrary to § 140-45B.
2. The Registrar requests that the lobbyists named in this report and their representatives attend training in the Lobbying By-law provided by the Office of the Lobbyist Registrar.

## **RECOMMENDATION**

The Lobbyist Registrar recommends that:

1. City Council receive this report for information.

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## BACKGROUND

On June 24, 2014, the Integrity Commissioner reported to City Council on a fundraising event held on May 22, 2013 for the benefit of Councillor Giorgio Mammoliti (“the fundraiser”). [The Integrity Commissioner’s report was considered by Council on July 8, 9, 10 and 11, 2014.](#)

The Integrity Commissioner found that a number of businesses, including lobbyists, contributed to the fundraiser by buying tickets at \$500 each or tables of tickets at \$5,000 per table of 10, or by sending donations. Invitees received a letter from the son of the member of Council together with an invoice. The letter stated in part that support was sought for the councillor “so that he can continue to fight the good fight at Toronto City Hall... Rest assured any contributions made will not be in any way a conflict. We have obtained legal council [sic] and opinion to guide [the councillor] through this fundraising process and eliminate any possible conflicts or code of conduct issues.” An Event Company hosted the fundraiser, and received the cheques for the purchase of tickets and donations to the fundraiser.

After the fundraiser, the Event Company gave the councillor two cheques totalling \$80,000 as a “gift” from the proceeds of the event.<sup>1</sup> The Integrity Commissioner found that the receipt of these cheques by the councillor violated Article IV (Gifts and Benefits) of the *Code of Conduct for Members of Council*, which provides as follows:

*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.*

...

*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*

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<sup>1</sup> The OLR received evidence in this inquiry of an additional cheque for \$21,000 from the Event Company to the councillor.

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- iii. *is maintaining an active lobbyist registration with the City even though not having a current active subject matter with the lobbyist registry.*

The Integrity Commissioner found:

*In applying the specific provisions of Article IV (Gifts and Benefits) within the overall framework of the Code of Conduct I conclude that the \$80,000 cash gift to Councillor Mammoliti from the Event Company from the ticket sales to the May 22, 2013 dinner event was an impermissible gift. In accepting this gift, Councillor Mammoliti breached the Code of Conduct.*

Council adopted the Integrity Commissioner's finding that the councillor had violated the *Code of Conduct for Members of Council*; suspended remuneration paid to the councillor for a period of 90 days; and requested the City Solicitor to retain outside counsel to review the Integrity Commissioner's report to determine if there were grounds to refer the matter to the police for further criminal investigation.

## THE INQUIRY PROCESS

### Inquiries

On June 11, 2013, OLR Inquiries and Investigations Counsel (OLR counsel) sent a Notice of Inquiry to a consultant lobbying firm alleging breaches of the Lobbying By-law related to the fundraiser. This inquiry was later closed because there was no evidence that any contribution was made by the consultant lobbying firm to the fundraiser, although members of the firm attended the event.

In the course of this inquiry, OLR counsel obtained records of 43 contributions to the fundraiser by individuals and organizations totalling \$142,428 and determined that, of these, 16 contributions totalling \$49,784 appeared to contravene §§ 140-42A and 140-45B. On November 24, 2014, OLR counsel sent Notices of Inquiry to the 16 individuals and corporations who made these contributions, together with an opportunity to respond to the allegations in the notice and a summons for the production of documents.

OLR counsel gathered further information and evidence, issued summonses and interviewed 11 witnesses under oath, including 8 individuals with 5 respondents.

Of the 16 inquiries, 12 were closed after investigation and receipt of submissions from the responding parties, because there was insufficient evidence to show a breach of the Lobbying By-law. In the 12 cases that were closed, the respondents were not lobbyists when they contributed to the event. Eight of these respondents were clients of consultant lobbyists, making contributions totalling \$21,750.

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On January 14, 2015, I sent my Proposed Findings and Disposition together with the facts on which the findings were based to six inquiry respondents, with an opportunity for them to respond in writing and to meet with the Registrar, if they so desired. I sent a Revised Proposed Disposition on February 25, 2015 to the six inquiry respondents, with an opportunity for them to respond in writing or in person. Two respondents and their counsel, and counsel for one respondent, met with OLR counsel and me. All six respondents who received proposed findings and dispositions provided written submissions through their counsel. Two respondents were determined not to have been lobbyists when they contributed to the fundraiser, although they were clients of consultant lobbyists. This report addresses the four inquiries where breaches of §§140-42A and 140-45B were found in relation to contributions totalling \$23,500.

## **Notice of this Inquiry to Chief of Police**

When it received the Integrity Commissioner's report on this matter, Council found a serious breach of the Code of Conduct for Members of Council and requested the City Solicitor to seek independent advice on whether the matter should be referred to the police. In light of this direction, OLR counsel sought the advice of the Chief of Police, Toronto Police Service on whether this inquiry would interfere in any way with any possible concurrent criminal investigation by them. The Office of the Chief of Police advised that the OLR inquiry does not hinder their effort in this matter. I concluded that it was appropriate to continue with this inquiry under s. 169 of *COTA*. I have also informed the Office of the Chief of Police of my intent to report to Council on this inquiry.

## **THE LOBBYING BY-LAW**

### **§ 140-42A: Gifts and favours**

Subsection 140-42A provides:

- A. 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.*

The purpose of this provision is to prevent lobbyists from using gifts and favours as a form of lobbying. The gift or favour itself is a form of lobbying. This provision is an essential part of the Lobbyists' Code of Conduct. The arranging or giving of gifts and favours is improper conduct on the part of the lobbyist. A gift or benefit may create goodwill for future lobbying activities as well as current ones, as well as a sense of personal obligation giving rise to a real or apparent conflict of interest. The purpose of § 140-42A is to prevent these types of harmful results, which undermine the public confidence in the integrity of City government decision-making.

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When lobbyists provide gifts and benefits to public office holders, this constitutes an improper benefit and a form of influence peddling, as explained by Madam Justice Denise E. Bellamy, Commissioner, in her report on the *Toronto Computer Leasing Inquiry and Toronto External Contracts Inquiry* (Toronto, 2005), Volume 2, Good Government at pages 82-83 as follows:

**100. No lobbyist should ever practise influence peddling. Councillors and staff should not risk compromising their positions by accepting any benefits of any kind from lobbyists.**

*Influence peddling includes giving gifts, buying meals, entertaining, bestowing favours, trading secrets, or taking any other steps with a government official to attempt to create a relationship of personal obligation. This is the heart of misconduct for a lobbyist.*

*Entertainment-based influence and relationship building have no place in lobbying the public sector. Entertainment- or favour-based relationship building does absolutely nothing to advance the public interest. It undermines public trust in the independence of public sector decision making, and therefore it has no legitimate role to play.*

*The practice of giving benefits, favours, or entertainment to staff or councillors can sometimes be subtle and indirect. A lobbyist might invite a member of staff to a friendly dinner. Vendors' associations and commercial interests of all kinds organize "information nights" or other forms of social contact with elected officials and staff involving meals or entertainment paid for by vendors. Such an event might be a boat cruise, the opening night of a hot new play or musical in town, a sports event, a concert, or a golf tournament. Elected officials and staff may be sorely tempted to accept such treats at a lobbyist's or commercial supplier's expense. But this would be wrong, and staff and councillors alike should decline these invitations.*

*Commercial suppliers and lobbyists who spend money on entertainment events for public servants expect an eventual return on their investment. They hope for influence. This practice, however, amounts to using favours or benefits to acquire influence. It is an inappropriate lobbying practice in the public sector, and as such should neither be offered by lobbyists or vendors nor be accepted, if offered, by councillors or staff.*

*The responsibility to stop these practices lies primarily with government officials, both councillors and staff. They should decline these types of invitations, explain why, and put forward policies that discourage lobbyists and vendors from offering favours or benefits as part of their public sector strategies. Lobbyists and businesses, for their part, should respect and abide*

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*by these imperatives. They should devise alternative ways of promoting their products or ideas that focus on the merits of the product or the idea itself, rather than on lavish dinners or professional sports events.*

### **§ 140-45. Improper Influence.**

Section 140-45 seeks to prevent all forms of improper influence by lobbyists on public office holders. Its three subsections address three forms of improper influence: avoiding both the deed and appearance of impropriety; placing public office holders in a conflict of interest or in breach of the public officers' codes of conduct; and undertaking any action that would bestow an improper benefit or constitute improper influence. These subsections are discussed below.

#### **§ 140-45A: Avoiding the Deed and Appearance of Impropriety**

Subsection 140-45A provides:

*A. Lobbyists shall avoid both the deed and appearance of impropriety.*

The fundamental purpose of the Lobbying By-law's Code of Conduct for lobbyists is to ensure that both the deed *and the appearance* of improper behaviour by lobbyists are prevented. Examples of improper behaviour by a lobbyist included in the Code of Conduct include offering or bestowing gifts or favours on a public office holder, placing public office holders in a real or apparent conflict of interest and bestowing an improper benefit on or exerting improper influence over a public office holder.

#### **§ 140-45B: Placing a Public Office Holder in a Conflict of Interest**

Subsection 140-45B provides:

*B. Lobbyists shall not place public office holders in a conflict of interest or in breach of the public office holders' codes of conduct or standards of behaviour.*

The purpose of § 140-45B is to prevent lobbyists from placing public office holders in a conflict of interest, whether real or apparent. The nature and purpose of § 140-45B is preventive, not punitive. Conflict of interest, both real and apparent, is to be avoided in order to promote the public trust in City government.

The purpose of § 140-45B is best achieved by interpreting "conflict of interest" consistently with the common law as including both "real" and "apparent" conflict of interest. The common law definition of "conflict of interest" includes both "real" and

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“apparent” conflict of interest. The Integrity Commissioner and Lobbyist Registrar adopted the common law definition of “conflict of interest” in [The Joint Interpretation Bulletin of the Lobbyist Registrar and Integrity Commissioner, Lobbying and Municipal Elections at the City of Toronto \(January 10, 2014\)](#):

6. *A conflict of interest is any interest, relationship, association or activity that may be incompatible with the duties of the public office holder, including the duty to act in the public interest, whether real or apparent.*

As explained in the Interpretation Bulletin, the Integrity Commissioner and the Lobbyist Registrar apply the common law definition of the term “conflict of interest” used by Madam Justice Denise E. Bellamy, Commissioner, in her report on the *Toronto Computer Leasing Inquiry and Toronto External Contracts Inquiry* (2005) and by the Federal Court of Appeal when considering a similar federal lobbyists’ code of conduct provision in *Democracy Watch v. Campbell*, 2009 FCA 79. Madam Justice Bellamy wrote that “conflict of interest is essentially a conflict between public and private interests” at Vol. 2, Good Government, pages 38 and 39:

*Conflicts of interest confuse decision-makers and distract them from their duty to make decisions in the best interests of the public, which can result in harm to the community. The driving consideration behind conflict of interest rules is the public good. In this context, a conflict of interest is essentially a conflict between public and private interests. . . . The core concern in a conflict is the presumption that bias and a lack of impartial judgement will lead a decision-maker in public service to prefer his or her own personal interests over the public good. . . . conflicts of interest extend to any interest, loyalty, concern, emotion, or other feature of a situation tending to make the individual’s judgement less reliable than it would normally be.*

In *Democracy Watch v. Campbell*<sup>2</sup>, a lobbyist hosted a fundraising dinner for a federal minister who was seeking re-election. At the time, the lobbyist was registered to lobby the minister and his ministry. Democracy Watch argued that the lobbyist had breached Rule 8 of the federal *Lobbyists’ Code of Conduct*. Rule 8 provides:

*Lobbyists shall not place public office holders in a conflict of interest by proposing or undertaking any action that would constitute an improper influence on a public office holder.*

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<sup>2</sup> *Democracy Watch v. Campbell*, 2009 FCA 79 (CanLII)(Federal Court of Appeal).

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In summary, the Federal Court of Appeal in *Democracy Watch* adopted a definition of “conflict of interest” in a very similar provision of the federal code of conduct for lobbyists that:

- Includes apparent as well as real conflict of interest;
- Defines conflict of interest as the presence of competing loyalties or conflicting obligations, a tension between the person’s duty and some other interest or obligation, a “real or seeming incompatibility” between one’s private interests and one’s public duties or fiduciary duties;
- Does not require proof of actual influence by the personal interest upon the professional duty; and
- Does not require proof of actual receipt of a benefit.

The Federal Court of Appeal discussed the meaning of “conflict of interest” in Rule 8 at paragraphs 41-50 as follows, in part:

[41] The common element in the various definitions of conflict of interest is . . . the presence of competing loyalties . . . .

[45] . . . the idea of conflict of interest is intimately bound to the problem of divided loyalties or conflicting obligations. While the specific facts giving rise to a conflict of interest will vary from one profession to another, that which leads to the conclusion that a person is subject to a conflict of interest is the presence of a tension between the person’s duty and some other interest or obligation.

. . .

[49] . . . the rule against conflicts of interest is a rule against the possibility that a public office holder may prefer his or her private interests to the public interest. If one looks to the passages cited above, they refer to the possibility that one’s private interest *may* interfere with the discharge of one’s public duty . . . .

. . .

[50] In *Cox*, the Ontario Divisional Court made this point explicitly:

Conflict of interest does not require proof of actual influence by the personal interest upon the professional duty any more than it requires proof of actual receipt of a benefit. [*Cox*, at page 469.]

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Including “apparent” conflict of interest in the interpretation of conflict of interest is consistent with a broad and purposive interpretation of § 140-45B. The common law definition of conflict of interest, which includes both real and apparent conflict of interest, accords with the purpose of the Lobbyists’ Code of Conduct provision that lobbyists not place public office holders in a conflict of interest or in breach of their codes of conduct or standards of behaviour.

The purpose of § 140-45B is to enhance the public’s confidence in the integrity of City government by preventing conflicts of interest from occurring. In the *Commission of Inquiry into the Facts and Allegations of Conflict of Interest Concerning the Honourable Sinclair M. Stevens* (1987), The Honourable W.D. Parker, Commissioner, wrote (Part One, at page 30):

The concern about appearance of conflict of interest as an important ethical postulate of modern government is one that is well founded. The reasons are obvious. Trust and confidence in government can be maintained and enhanced only if the occasions for apparent conflict are kept to a minimum. Public perception is important. Indeed, the perception that government business is being conducted in an impartial and even-handed manner goes a long way to enhancing public confidence in the overall integrity of government.

The Honourable Jeffrey J. Oliphant, Commissioner, wrote in the *Report of the Commission of Inquiry into Certain Allegations respecting Business and Financial Dealings between Karlheinz Schreiber and The Right Honourable Brian Mulroney* (“Oliphant Commission Report”) (2010) at page 531 on defining conflict of interest, adopting the Parker Commission definition of conflict of interest, as follows:

. . . The 1987 Parker Commission defined a real conflict of interest as a “situation in which a minister of the Crown has knowledge of a private economic interest that is sufficient to influence the exercise of his or her public duties and responsibilities”. An apparent conflict of interest “exists when there is a reasonable apprehension, which reasonably well-informed persons could properly have, that a conflict of interest exists”.

An apparent conflict of interest may exist even if there is, in fact, no actual conflict. Although the final holding of the Parker Commission was ultimately challenged successfully in Federal Court on administrative law grounds, the definition of apparent conflicts of interest it offered is amply justified by other authorities. The Supreme Court of Canada, for example, seems to have equated an “apparent” conflict of interest with the administrative law standard of “reasonable apprehension of bias”.

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The Federal Court of Appeal has applied what amounts to the same standard: “Would an informed person, viewing the matter realistically and practically and having thought the matter through, think it more likely than not that the public servant, whether consciously or unconsciously, will be influenced in the performance of his official duties by considerations having to do with his private interests?”

Apparent conflict of interest does not require actual knowledge of the conflict. The Parker Commission adopted the view that “real” and “apparent” conflicts of interest are distinguishable partly by whether actual knowledge by the public office holder of the conflict existed (Part One, page 32). A real conflict requires such knowledge whereas apparent conflict does not:

. . . Real conflict requires, inter alia, knowledge on the part of the public office holder of the private interest that could be affected. No such actual knowledge is necessary for an apparent conflict because appearance depends upon perception.

Commissioner Parker took the view that “although appearance of conflict requires that the perception be fair-minded and reasonably well-informed, it does not require that the perception be based on a complete understanding of *all* the facts, including the public office holder’s actual knowledge”.

In my view, the observations of the Parker Commission regarding the purpose and interpretation of the conflict of interest provisions in the British Columbia code of conduct for public office holders are relevant to § 140-45B, which requires lobbyists to avoid placing public office holders in a conflict of interest. This provision clearly has the purpose of *preventing* conflicts of interest by public office holders of their codes of conduct. This achieves the object and purpose of the Lobbyists’ Code of Conduct, which is to enhance the integrity of government decision-making by ensuring that public office holders are not placed in a conflict of interest. Inclusion of “apparent conflict of interest” in the common law definition recognizes the principle that justice must not only be done but must be seen to be done. It recognizes that the public perception of the integrity of government is important.

Since § 140-45B is not punitive but rather is preventive in nature, it should be interpreted as being remedial and in a broad and purposive way. This is consistent with s. 64 of the *Legislation Act, 2006*, S.O. 2006, c. 21, Sched. F, s. 64(1), which provides:

**64. (1)** An Act shall be interpreted as being remedial and shall be given such fair, large and liberal interpretation as best ensures the attainment of its objects. 2006, c. 21, Sched. F, s. 64 (1).

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## § 140-45C: Improper Benefit; Improper Influence

Subsection 140-45C prohibits a lobbyist from proposing or undertaking any action that would bestow an improper benefit or constitute an improper influence on a public office holder.

When a lobbyist offers or provides a gift for the benefit of a public office holder in contravention of § 140-42A, the lobbyist has bestowed an improper benefit on the public office holder.

## ANALYSIS

### Conclusions

I have accepted the finding of the Integrity Commissioner that contributions to the fundraiser benefitted the member of Council for whom the fundraiser was held.

The Lobbying By-law, § 140-42A prohibits lobbyists from lobbying by means of a gift or favour of any kind. The contributions to the fundraiser were a prohibited form of lobbying the member of Council and therefore breached § 140-42A. The contributions bestowed an improper benefit, and were a form of improper influence, as noted by Commissioner Bellamy in her report, quoted above under **§ 140-42A: Gifts and favours**.

In addition, a reasonable person, reasonably informed of the facts, would think that the contribution placed the councillor for whose benefit the contributions were made in an apparent conflict of interest between the councillor's private interests, including a personal sense of obligation to the contributors, and his duty to serve the public interest when acting in his capacity as councillor. Thus the contributions by lobbyists breached § 140-45B, which prohibits lobbyists from placing a public office holder in a conflict of interest.

In all of the cases described in this report, there is no evidence of actual influence on the councillor through the contributions, or that a "quid pro quo" was requested by any of the contributors from the councillor in return for their contribution.

### The Issue of Intent

Lack of intent to breach the Lobbying By-law was pleaded in the cases described in this report. However, intent is not a necessary element in a finding of breach of the Lobbying By-law. Intent to contravene the by-law will be considered in the disposition.

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## Finding 1

The information considered in making this finding follows:

1. On May 9, 2013, the councillor's staff sent an email to Ralph Lean, attaching a letter of invitation from the councillor's family dated April 12, 2013, inviting recipients to the fundraiser. The letter stated that cheques could be made payable to the event organizer in the amount of \$5,000 per table of 10.
2. On May 17, 2013, Mr. Lean requisitioned a cheque for \$1,000.00 payable to the event organizer. Details given were "x2 tickets for [the fundraiser] (\$500 a ticket)". The request was approved by the Director, Marketing and Business Development of his law firm. A Business Development Request Form indicated the Title of the Request as "Tickets for Giorgio Mammoliti Event" and that this was a "Donation" for "Political support for Giorgio Mammoliti".
3. When the cheque was requisitioned by Mr. Lean, he was registered as a consultant lobbyist with an active subject matter registration, SM18265, respecting a planning and development and zoning by-law application that would come to Council for decision.
4. On May 22, 2013, a cheque in the amount of \$1,000.00 was issued by Mr. Lean's law firm to the event organizer for the fundraiser. The order form for the cheque stated: "5/22/2013 2 tickets for Giorgio Mammoliti Event \$1,000.00".

Mr. Lean requisitioned a cheque for \$1,000.00 from his law firm to the fundraiser for the councillor's benefit. When he arranged this contribution, Mr. Lean was a registered consultant lobbyist.

The contribution was a prohibited form of lobbying under § 140-42A. A reasonable person, reasonably informed of the facts, would think that the contribution created an apparent conflict of interest between the councillor's private interests, including a sense of personal obligation to the contributor, and his public duties regarding the matter about which Mr. Lean was registered, contrary to § 140-45B.

There is no evidence that Mr. Lean intended to breach the Lobbying By-law or of actual influence on the councillor as a result of the contribution or of any "quid pro quo" being requested. However, as stated earlier, actual influence or intent to breach are not required to be proved in relation to breaches of the Lobbying By-law.

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## **Finding 2**

The information considered in making this finding follows:

1. Sheldon Libfeld received a letter dated April 12, 2013 from the councillor's family, inviting recipients to the fundraiser.
2. On April 24, 2013, the Controller for the Conservatory Group sought legal advice on whether giving money to this event would be a problem, whether this was "legal" and an allowable business expense. The advice given was that it "should not be a problem to deduct – legal." Legal counsel who gave the advice was not aware that Mr. Libfeld was a registered lobbyist with the City.
3. A cheque dated May 3, 2013 in the amount of \$10,000.00 was issued by Oakdale Village Homes Inc., of which Mr. Libfeld is President, to the event organizer for the purchase of two tables at the fundraiser.
4. On May 9, 2013, the councillor's staff sent an email to staff at the Conservatory Group, acknowledging receipt of the \$10,000.00 cheque and attaching a revised invoice to "Oakdale Village Homes Inc.", "Att: Sheldon Libfeld" in the amount of \$10,000.00 for "Purchase of 2 tables (20 tickets)" for the fundraiser.
5. An earlier invoice in the same amount for the same event and same tickets had been issued to "The Conservatory Group", "Att. Sheldon Libfeld". Mr. Libfeld is President, Secretary and Director of The Conservatory Management Group Inc.
6. When the cheque was issued, Mr. Libfeld was a registered in-house lobbyist for the Conservatory Group Inc. with active subject matters in a planning and development and zoning by-law applications that would come to Council for decision.

The contribution was a prohibited form of lobbying under § 140-42A. A reasonable person, reasonably informed of the facts, would think that the contribution placed the councillor in an apparent conflict of interest between the councillor's private interests, including a sense of personal obligation to the contributor, and the councillor's public duties regarding the matter about which Mr. Libfeld was registered, contrary to § 140-45B.

Mr. Libfeld contributed to the fundraiser through one of his corporations, Oakdale Village Homes Inc. When he made this contribution, Mr. Libfeld was a registered in-house lobbyist for another of his corporations, the Conservatory Group Inc. Conservatory Group Inc. was the original recipient of the invoice.

Mr. Libfeld's counsel submitted that the request to change the entity invoiced to "Oakdale Village Homes Inc." resulted from advice by the auditors and lawyers for Mr. Libfeld's group of companies that Oakdale Village Homes Inc. was the appropriate entity to which a promotional event should be charged. I do not draw any adverse

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inference from the fact that there was a request to change the name of the invoiced entity. I do find that there is a relationship between the contribution and Mr. Libfeld, a registered lobbyist for the Conservatory Group, to whose attention both invoices were sent.

There is no evidence of any actual influence or “quid pro quo” being requested by the contributor. Nor is there evidence of intent to breach the Lobbying By-law. On the contrary, the evidence is that Mr. Libfeld sought independent legal advice to ensure that the contribution was permissible. Mr. Libfeld and his companies have not lobbied the councillor for whose benefit the contribution was made. However, as stated earlier, actual influence or intent to breach are not required to be proved in relation to breaches of the Lobbying By-law.

### **Finding 3**

The information considered in making this finding follows:

1. On May 8, 2013, the councillor’s staff sent an invoice to staff at Terrasan stating “As discussed yesterday, please find attached the invoice requested by Louie. Please let me know if any changes are required.” On May 17, 2013, a second email was sent to the same staff at Terrasan, attaching a letter of invitation to the fundraiser and the same invoice. The email stated “Attached is both the letter invite and the invoice as requested by Louie.” The emails described the invoice attachment as “Louie Santaguida Invoice”. The invoice was from the event organizer and described the “Client” as “Terrasan 327 Royal York Rd. Inc.” “Att: Louie Santaguida”, in the amount of \$5,000.00, for “On the Go – VIP Launch”.
2. On May 17, 2013, the councillor’s staff sent a revised invoice to “Terrasan 327 Royal York Rd.” “Att. Louie Santaguida” for the same amount total (\$5,000), with the amount of HST shown.
3. On May 23, 2013, the councillor’s staff sent a second revised invoice to staff at Terrasan, describing the “Client” as “TS Business Consultant”, with a Maple, Ontario address, “Att. Louie Santaguida” in the same amount (\$5,000 including HST) for the same “job” (“On the Go-VIP Launch”).
4. The councillor’s staff sent a third revised invoice to the same staff at Terrasan on May 23, 2013. In this revised invoice, “TS Business Consultant” was changed to “TF Business Consultant”, “Att. Louie Santaguida”, in the same amount (\$5,000 including HST) for the same “job” (“On the Go-VIP Launch”). A person at a Terrasan email address acknowledged receipt of the revised invoice to TF Business Consultants and requested the HST number.
5. A cheque in the amount of \$5,000.00 dated May 23, 2013 was issued by TF Business Consultant to the event organizer.

## **Inquiry into Contributions by Lobbyists to a Fundraiser for a Member of Council**

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6. Louie (Luigi) Santaguida is the sole Director, President and Secretary of Terrasan 327 Royal York Rd. Limited ("Terrasan").
7. When the cheque was issued, Mr. Santaguida was a registered in-house lobbyist for "Santerra" in subject matter SM18106 (now SM21740) regarding a planning and development application and official plan amendment that would come to Council for decision.

The contribution was a prohibited form of lobbying under § 140-42A. Mr. Santaguida lobbied by means of a contribution of \$5,000 to the fundraiser through TF Business Consultant. When he directed or arranged this contribution, Mr. Santaguida was a registered in-house lobbyist.

In addition to breach of § 140-42A, a reasonable person, reasonably informed of the facts, would think that the contribution placed the councillor in an apparent conflict of interest between the councillor's private interests, including a personal sense of obligation to Mr. Santaguida, and the councillor's public duties regarding the matter about which Mr. Santaguida was registered, contrary to §140-45B.

There is no evidence of any actual influence being exerted through the contribution, of a "quid pro quo" being requested or of intent to breach the Lobbying By-law. However, as stated earlier, actual influence or intent to breach are not required to be proved in relation to breaches of the Lobbying By-law.

Mr. Santaguida's counsel, Brett D. Moldaver, submitted on March 11, 2015 that although Mr. Santaguida was a registered lobbyist, there was "no act of lobbying and no evidence of any provision of a gift or otherwise by Mr. Santaguida". Further, Mr. Moldaver submitted that "the code requires the bestowing of a gift in connection with lobbying", stating in part:

While Mr. Santaguida was a registered lobbyist there is no evidence he paid for the event or lobbied. The evidence is that a third party paid for the event and was invoiced by [the event organizer]. Mr. Santaguida denies he paid for the tickets or the event otherwise and he denies he engaged in any lobbying activities with the Councillor.

In short there simply seems to be the suggestion that since Mr. Santaguida is a lobbyist and as such breached the code. This suggestion casts a shadow over Mr. Santaguida's reputation and character that is simply not warranted. Mr. Santaguida urges this office to not take any further steps in this regard.

I interpret § 140-42A and the evidence differently from Mr. Santaguida's counsel. As explained in the section of this report on the interpretation of this subsection, the purpose of § 140-42A is to prevent lobbyists from lobbying by means of gifts and favours. When lobbyists provide or arrange for the provision of gifts and benefits to public office holders, this is a form of lobbying and constitutes an improper benefit and a form of influence peddling, as explained by Madam Justice Bellamy in her Report on the Toronto Computer Leasing Inquiry, quoted above.

## **Inquiry into Contributions by Lobbyists to a Fundraiser for a Member of Council**

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I disagree with the submission by Mr. Santaguida's counsel that there was "no act of lobbying". Evidence that the cheque was offered as an act of lobbying is not required. When a lobbyist offers, bestows or provides a gift or favour for the benefit of a public office holder, this act in itself is a form of lobbying. Mr. Santaguida was an active lobbyist when the cheque was issued, having lobbied as recently as March 2013, two months before the cheque was issued. I conclude that this contribution for the benefit of a member of Council by an active registered lobbyist was a form of lobbying that is prohibited by § 140-42A.

While the cheque was not written by Mr. Santaguida, it is reasonable to infer from the emails and invoices, which have not been disputed and were provided by Mr. Santaguida, that the contribution was made at the direction of or arranged by Mr. Santaguida. The emails indicate that the invitation and invoices were sent to staff at Terrasan at Mr. Santaguida's request. Mr. Santaguida is sole Director, President and Secretary of Terrasan. The name of the invoice document sent was "Louie Santaguida Invoice". All of the invoices were to the attention of Mr. Santaguida, apparently at his request, regardless whether the name of the "Client" was Terrasan, TS Business Consultant or TF Business Consultant.

Mr. Santaguida has provided documentary evidence, including the emails and invoices mentioned in this report, but has not explained the circumstances of the invoices and the cheque. His counsel's submissions simply deny that the cheque was written by him and state that a third party paid for the event and was invoiced. Although given the opportunity to provide evidence under oath, Mr. Santaguida did not do so. I may draw reasonable inferences from the fact that he has not taken that opportunity.

In the absence of an explanation to the contrary, I find on a balance of probabilities that the cheque was arranged by or at the direction of Mr. Santaguida, even though it was written by a third party. The contribution was effectively Mr. Santaguida's contribution, through the agency of a third party. This finding is sufficient to support the conclusion that Mr. Santaguida lobbied by means of the contribution, contrary to § 140-42A.

Mr. Moldaver took issue with the making of findings without an oral hearing on the merits. I note that Mr. Santaguida was given notice of the allegations and proposed findings and disposition together with a full opportunity to respond in writing as well as in person. His counsel has provided documents and written submissions. Further, by letter to his counsel dated March 13, 2015, Mr. Santaguida was explicitly given the opportunity to attend to give evidence under oath.

# Inquiry into Contributions by Lobbyists to a Fundraiser for a Member of Council

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## Finding 4

The information considered in making this finding follows:

1. An invoice for \$7,500 was issued by the event organizer to Medallion Corporation. The invoice described the “job” as “December 18<sup>th</sup> 2012 Community Promo Event”.
2. A cheque dated June 28, 2013 in the amount of \$7,500 was issued by Medallion Developments Inc. to the event organizer.
3. Nathan Bleeman, Vice-President and Howard Paskowitz, Senior Development Manager of Medallion Corporation (Medallion Development Inc.) confirmed in interviews under oath that the cheque for \$7,500 was issued after receiving a verbal request from the councillor’s assistant and a written invitation to the fundraiser.
4. Messrs Bleeman and Paskowitz explained that they understood the event was a fundraiser for the councillor. They did not want to attend or purchase tickets. They asked if there was another way to assist in covering the costs of the event, without being associated directly with the event. As a result, an invoice was issued in the form noted in paragraph 1, above.
5. When the cheque was issued, Medallion Corporation ("Medallion") was registered to lobby regarding planning and development applications in SM12293 and SM15504, which would come to Council for decision. Messrs Bleeman and Paskowitz were both registered in-house lobbyists in these matters. Medallion was also the registered client of a consultant lobbyist in SM11232.
6. After the cheque was issued, Medallion’s consultant lobbyist lobbied Councillor Mammoliti regarding two subject matters, SM11232 and SM20448.

The information shows that Medallion contributed \$7,500 to the fundraiser. Medallion initially provided a different explanation for the cheque, but later admitted that the cheque was in response to the fundraiser. Messrs Bleeman and Paskowitz, who arranged the contribution, were registered in-house lobbyists for Medallion. Later, Medallion’s consultant lobbyist lobbied the councillor.

Contributions by lobbyists to benefit a member of Council are a prohibited form of lobbying under §140-42A. By making the contribution, Medallion and its in-house lobbyists contravened § 140-42A.

A reasonable person, reasonably informed of the facts, would think that the contribution and subsequent lobbying placed the councillor in an apparent conflict of interest between the councillor’s private interests, including a sense of personal obligation to the contributor, and his public duty regarding the matters about which Medallion was registered and about which he was lobbied by Medallion through its representatives, contrary to § 140-45B.

# **Inquiry into Contributions by Lobbyists to a Fundraiser for a Member of Council**

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There is no evidence of actual influence, or that there was a “quid pro quo” or request for anything in return for the contribution. However, as stated earlier, actual influence or intent to breach are not required to be proved in relation to breaches of the Lobbying By-law.

## **REASONS FOR DISPOSITION**

Section 169 of the *City of Toronto Act, 2006* (“COTA”) provides that where the Registrar reports on an inquiry to City Council, the Registrar may disclose such information as is necessary for the purposes of the report. Generally, it is the Registrar’s practice to name a lobbyist who has breached the Lobbying By-law in her report. The purpose of the Lobbying By-law is to provide transparency and integrity in lobbying. Disclosure of the lobbyist who has breached the by-law in a report to Council is necessary to achieve transparency and integrity by enabling the public and public office holders to scrutinize the findings in relation to registrations and other reports to Council that are part of the public record.

All of the lobbyists named in this report have submitted that their breach of the Lobbying By-law was inadvertent and unintentional. Their contributions were solicited by the councillor’s family and staff. They were induced by the invitation letter to believe that making such a contribution was permissible. One lobbyist sought independent legal advice. Some thought that the contribution was to help the councillor’s family or the councillor personally while he was ill, or for the hospital that was treating the councillor, or that it was a permissible political fundraiser. In one case the lobbyists knew the contribution was wrong, but felt they could not refuse the request. All of the lobbyists submitted that they would suffer significant reputational damage from being associated with this case, and that this harm was disproportionate to the purpose served by the disclosure.

### **Discussion of Disposition**

#### **1. General Considerations**

I have weighed the mitigating and aggravating factors in the case of each lobbyist together with the public interest in deciding the appropriate disposition. In particular, I have considered and accepted that none of the lobbyists intended to breach the Lobbying By-law, all were solicited to make a contribution and all were induced by the Mammoliti family’s letter to believe that contributing to the fundraiser was permissible. One lobbyist sought independent legal advice on whether the contribution was permissible. Lobbyists felt that they could not refuse the request for a contribution, even though they were not comfortable with it. None of the lobbyists expected anything in return for their contribution, and most contributed for humanitarian reasons, out of concern for the councillor and his family as a result of his illness. I accept the concerns of the lobbyists about reputational damage as sincere and weighty.

# **Inquiry into Contributions by Lobbyists to a Fundraiser for a Member of Council**

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On the other hand, lobbyists are expected to know and comply with the Lobbying By-law; and breach of the Lobbying By-law by contributing to a fundraiser for a member of Council is a very serious type of breach. It goes to the foundation of the integrity of City government decision-making. Transparency is required to restore public trust in City government in a case such as this. One of the guiding principles of the Lobbying By-law states that the public and public office holders have the right to know who is attempting to influence City government decision-making.

## ***2. Advice Not to Lobby the Councillor***

The advice not to lobby the councillor is given in order to prevent placing the councillor in a conflict of interest, whether real or apparent, during this term of Council. This advice does not apply to communications that are exempt from the Lobbying By-law, such as those set out in § 140-5. Therefore, the lobbyists who are subject to my advice not to lobby the councillor are not subject to a blanket restriction on lobbying.

Generally, the communications that are exempt from the Lobbying By-law are set out in § 140-5. Communications that are part of public meetings of Council or its committees and public consultation processes are exempt under § 140-5B. A request for information and a direct response to a written request from the member of Council are exempt under §§ 140-5C and 140-5H. Lobbyists may meet with City staff and the ward councillor as a part of general information meetings including the type of pre-application meetings described by Medallion's counsel: § 140-5F(1).

Should a lobbyist be uncertain about whether a proposed communication is lobbying or feel that it is necessary to meet with the councillor on a matter, I am available to provide advice to them. If appropriate in the circumstances, I may modify or refine the advice I have given in this report. I encourage lobbyists to seek advice regarding particular situations about which they have concerns.

## ***3. Disclosure of Lobbyists' Names***

It has been my general practice to disclose in my reports to Council the names of lobbyists who breach the Lobbying By-law, in order to achieve the necessary transparency. I note that while the Integrity Commissioner did not name the lobbyists who made contributions, the focus of the Integrity Commissioner's report was whether a member of Council breached the Code of Conduct for Members of Council, whereas the focus of this report is whether lobbyists breached the Lobbying By-law.

I have concluded that the concerns of the lobbyists about reputational damage and their lack of intent to breach the Lobbying By-law cannot outweigh the public interest in transparency in this case, due to the serious nature of the breaches. The public and public office holders need to know that particular lobbyists have been found to have breached the by-law, the nature and circumstances of the breach, and what has been done to address this situation, including the advice to particular lobbyists not to lobby a particular councillor. The public and public office holders should be able to scrutinize

# **Inquiry into Contributions by Lobbyists to a Fundraiser for a Member of Council**

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the relevant lobbyist registrations and reports to Council to know what lobbying has occurred and to ensure future compliance. They can only do so if the lobbyists who are subject to this report are identified. This transparency is consistent with the preventive nature of the Lobbying By-law's Code of Conduct, and with the goal of restoring the public's trust in City government decision-making.

## **4. Other Action**

The fact that lobbyists were solicited and induced to contribute in the belief that this was permissible, did not intend to breach the Lobbying By-law and did not seek anything from the councillor in return for the contribution has been considered in deciding that no further action should be taken beyond this report and the referral of it to the appropriate authorities. I have not suspended, revoked or refused any registrations in view of the mitigating circumstances in this case. Given the length of time that has passed, and the mitigating factors of inducement and lack of intent, I have not laid charges under the *Provincial Offences Act* for the breaches identified in this Report.

I have advised all lobbyists and their representatives who contributed to the fundraiser not to lobby the councillor and his staff during the current term of Council in order to prevent placing the councillor in a further conflict of interest, and requested that the lobbyists attend training provided by the Office of the Lobbyist Registrar.

Respondents who contributed but were not lobbyists are being advised that they and their representatives should not lobby the councillor for whose benefit the contribution was made during this term of Council, in order to avoid placing the councillor in a conflict of interest.

Finally, I am forwarding this report to the Chief of Police, Toronto Police Service, in light of Council's direction when receiving the Integrity Commissioner's Report.

## **Considerations Related to Individual Lobbyists**

### ***Ralph Lean***

Mr. Lean and his counsel, Michael I. Binetti, met with OLR counsel and me to discuss the proposed findings and disposition. Mr. Lean submitted that he did not intend to breach the Lobbying By-law. He was led to believe that the contribution was legally permitted by the letter from the Mammoliti family. He assumed the councillor's son had obtained a special legal opinion. He knew the fundraiser was being held outside the permitted election fundraising period, but thought they had special permission to do so. He was concerned that his name would be associated with such a high profile case, and the reputational damage and impact on his career would cause him personal harm that was disproportionate to the transgression in this case. This is his first breach of the

## **Inquiry into Contributions by Lobbyists to a Fundraiser for a Member of Council**

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Lobbying By-law. He has registered to lobby in accordance with the by-law, but has in fact done very little lobbying at the City. In one registration, he was acting as a voluntary lobbyist. Mr. Lean has long been active in philanthropic, academic and community endeavours. Mr. Binetti submitted on 19 February, 2015 in part:

It is our respectful submission that naming Mr. Lean in your report would disproportionately impact on him given that he did not ever intend to breach the Lobbying By-law. Mr. Lean has fully co-operated with your investigation and provided all available documents – helpful and unhelpful. He has no disciplinary history with your office or the Law Society of Upper Canada. Even his lobbying is very limited as is revealed by the few registrations on the Lobbyist Registry. To now name him in this matter, especially in the circumstances of a publically-known police investigation (as reported in the Toronto Star), would harm him more than any good that could come from promoting compliance with the Lobbying By-law by naming him.

Mr. Lean has fully co-operated with this inquiry and has not breached the Lobbying By-law before. I accept that the breach was unintentional. He knew that this was a political fundraiser for a member of Council outside the fundraising period, but relied on the family's letter in thinking that this was permissible. However, he was a registered consultant lobbyist and a lawyer when he arranged the contribution, and is expected to be familiar with, understand and comply with the Lobbying By-law. This contribution was a serious breach of it.

### ***Sheldon Libfeld***

Mr. Libfeld's counsel, Mark Sandler, submitted that his client's breach was inadvertent, and that he had acted in good faith and with intent to comply with the law. He requested that Mr. Libfeld's name be anonymized in this report:

Mr. Libfeld takes no issue with a finding that he inadvertently contravened the Lobbying By-law. His concern is reputational. It is important to him that any report to Council reflect that there is no evidence that such a contravention was deliberate. On the contrary, there is evidence that Mr. Libfeld specifically instructed his office to make inquiries of a senior solicitor to ensure that it was lawful for him to authorize the subject cheque. He demonstrated the utmost good faith in doing so. It was only because of an inadvertent failure to communicate all of the relevant information to the advising solicitor that Mr. Libfeld received assurances, through his office's contact with the solicitor, that the cheque was lawful.

In summary, the evidence before you is that Mr. Libfeld intended to comply with the law throughout, sought legal advice in this regard, and would not have made any contribution had he appreciated that the purchase of these tables violated the By-law. Mr. Libfeld is respectfully requesting that paragraph 2 of the proposed facts set out in your letter more robustly reflect these circumstances. As well, there is no evidence that Mr. Libfeld requested or obtained any quid pro quo for this contribution. Although Mr. Libfeld recognizes that this is not a precondition to a contravention, it is a relevant fact that should be reflected as well.

## **Inquiry into Contributions by Lobbyists to a Fundraiser for a Member of Council**

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Second, paragraphs 4 and 5 of the proposed facts set out in your letter accurately state that the relevant invoice was revised to reflect the contribution by Oakdale Village Homes Inc. rather than by the Conservatory Group. As set out in my earlier letter, the invoice was changed to accurately reflect that actual payor. The Conservatory Group is not incorporated. The lawyers and auditors have made it clear that expenses should be charged to a specific company such as Oakdale, not to The Conservatory Group. The decision to expense this item by Oakdale accorded with accounting and legal advice, and was completely unrelated to which individuals or entities were reflected in the Lobbyist Registry. Again, Mr. Libfeld is respectfully requesting that the proposed facts reflect these circumstances, so as not to leave the misimpression that a sinister inference is being drawn from this change.

Finally, Mr. Libfeld is requesting that his name and that of his company be anonymized in the report to Council. As I have already reflected, he and his company highly value their reputation. The report can fully and accurately set out the relevant circumstances without naming Mr. Libfeld or his company. This is appropriate in circumstances in which legal advice is sought, albeit imperfectly, in ensuring compliance with the law. It will be all too easy for the public to mistakenly associate Mr. Libfeld with the larger issues raised in connection with Mr. Mammoliti's conduct when the evidence pertaining to Mr. Libfeld does not warrant that association. As well, there is no need to deter Mr. Libfeld or his company. He is now keenly aware of the issues, and will ensure future compliance.

Mr. Libfeld and his companies have not previously breached the Lobbying By-law and have fully co-operated with this inquiry. I do not draw an adverse inference from the fact that the invoice was revised to show a different company, having been provided a reasonable explanation for this. I note that, contrary to Mr. Sandler's submission, The Conservatory Group is incorporated. I accept that Mr. Libfeld was led to believe, incorrectly, by independent legal advice, that the contribution was permissible; and that the breach was unintentional. However, as a registered lobbyist, Mr. Libfeld is expected to be familiar with, understand and comply with the Lobbying By-law. This contribution was a serious breach of it.

### ***Luigi Santaguida***

Mr. Santaguida responded promptly through his counsel and co-operated fully with the OLR's request for documents. He has not previously breached the Lobbying By-law. I accept that this breach may have been unintentional. However, as a registered lobbyist, he is expected to be familiar with, understand and comply with the Lobbying By-law. This contribution was a serious breach of it.

Mr. Santaguida's counsel proposed the following disposition:

. . . Mr. Santaguida, without retreat of his position, including having not lobbied the Councillor and not intending to do so presently, is willing to agree not to lobby the Councillor for the balance of this year provided that this has no impact on lobbying of, presentations to or appearances before, the City on committees, subcommittees, panels, commissions or the like in which the Councillor sits or will sit. Mr. Santaguida

# Inquiry into Contributions by Lobbyists to a Fundraiser for a Member of Council

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should not be precluded from dealings with the City in such contexts. In addition Mr. Santaguida would require should this agreement be reached, that no further steps, including provision of the Proposed (as revised or otherwise) Disposition be recorded or otherwise published.

In my view, counsel's proposed disposition is insufficient to prevent placing the councillor in a further conflict of interest or to provide transparency. The period of time during which my advice applies is the duration of this term of Council, in order to prevent placing the councillor in a conflict of interest. The publication of my findings and the disposition in this report is necessary in the public interest to provide transparency, as discussed in more detail below above under **3. Disclosure of Lobbyists' Names**.

The advice not to lobby the councillor does not apply to exempt communications under the Lobbying By-law, which includes representations to public meetings of Council and its committees and public consultations. See the discussion of exempt communications above in **2. Advice Not to Lobby the Councillor**.

## **Medallion**

Medallion was a registered lobbyist corporation when it contributed to the fundraiser. Messrs Bleeman and Paskowitz, the registered in-house lobbyists who arranged the contribution, were expected to know and comply with the provisions of the Lobbying By-law. This contribution was a serious breach of it.

I accept as credible their evidence that they felt they could not refuse the request to make a contribution, even though they were not comfortable with it. However, it is a matter of concern that Medallion initially provided an alternate explanation for the cheque, and only later admitted that the cheque was in response to the fundraiser.

Medallion's counsel, Kim Mullin, submitted in part on June 11, 2015:

Medallion undertakes to have its lobbyists attend training in the Lobbying By-law, as set out in your proposed disposition. However, Medallion respectfully requests that you reconsider your proposal to advise all lobbyists for Medallion not to lobby Councillor Mammoliti during the current term of Council. The basis for this submission is set out below.

Other than this incident, Medallion has consistently complied with its obligations under the Lobbying By-law by ensuring that its in-house lobbyists and consultant lobbyists are registered and file all returns required by the Lobbying By-law.

Medallion did not set out to run afoul of the Lobbying By-law. Medallion was put in the extremely difficult position of being asked to contribute to the fundraiser. Both Nathan Bleeman and Howard Paskowitz stated under affirmation during their interviews by Investigations Counsel that they did not feel comfortable participating but also did not feel they could refuse. Medallion recognizes now that it should have refused to be involved, but submits that its conduct was the result of an error in judgment.

## Inquiry into Contributions by Lobbyists to a Fundraiser for a Member of Council

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Medallion is a real estate development and property management company which owns, develops and operates residential, industrial and commercial buildings. Many of Medallion's properties are located in Ward 7, which is Councillor Mammoliti's ward.

. . . Your proposed disposition . . . would prevent Medallion from even letting Councillor Mammoliti know, for example, when Medallion intends to submit an application for development approvals in Ward 7. . . . In addition, the practice of the City's Planning Department is to invite local Councillors to any pre-consultation meetings relating to development applications in their wards. . . . In these circumstances, Medallion submits that a blanket restriction on its ability to communicate in any way with the Ward Councillor would be a disproportionate response. . . .

My advice does not constitute a blanket restriction on lobbying the councillor. The types of communications referred to in counsel's submissions are in large part exempt under § 140-5 of the Lobbying By-law. My advice and the relevant exemptions are discussed above in **2. Advice Not to Lobby the Councillor**.

Respectfully submitted,

Linda L. Gehrke,  
Lobbyist Registrar  
City of Toronto