

# **Report for The City of Toronto**

## **Municipal Election Compliance Audit of the Campaign Finances of Candidate Faith Goldy**

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*William Molson CPA*

*Licensed Public Accountant*

*January 13, 2022 (revised as to report date)*

## **INDEPENDENT AUDITOR'S REPORT ON COMPLIANCE WITH THE REQUIREMENTS OF THE MUNICIPAL ELECTIONS ACT, 1996**

To: Faith Goldy, Candidate;  
The City of Toronto;  
John Elvidge, City Clerk;  
Evan Balgord, Applicant.

### **1. Summary of findings**

- 1.1. In my opinion, candidate Faith Goldy (“Goldy” or “the Candidate”) contravened the requirements of the *Municipal Elections Act, 1996* (“Act” or “MEA”) because the prescribed “Financial Statement – Auditor’s Report, Form 4 (the “Financial Statement”) filed by Goldy was not prepared in compliance with the Act and did not reflect her election campaign finances, which is an offence under paragraph 92(1)(b) of the Act. Goldy incurred and did not report \$86,398.49 in campaign period expenses (4.1 below), and in addition to those revenues discussed at 1.2 below, accepted and did not report \$56,117.95 in contributions made by residents of Ontario prior to December 31, 2018 (4.2 below), and accepted and did not report \$12,365.99 in contributions made after December 31, 2018 without extending her campaign (4.3 below).
- 1.2. The Applicant Evan Balgord (“Balgord” or the “Applicant”) raised concerns that the Candidate had solicited and accepted contributions from persons outside Ontario, and that it should be determined whether such funds were used for their intended purpose and recorded separately from her income. My conclusion is that during the campaign period Goldy apparently accepted and did not report or account for in the Financial Statement \$71,577.94 in contributions, including contributions from ineligible contributors, in order to pay for campaign expenses, and accepted a further \$29,540.06 of such contributions in 2019 after the expiration of her campaign period, for a total of \$101,118.00 (4.4.11 ff below) in addition to those contributions in 1.1 above.
- 1.3. The Candidate apparently also exceeded the \$25,000 limit on contributions that she was entitled to make to her own campaign for the office of Mayor, by \$56,388.63 (5.2.2 below).

### **2. Introduction and background, including list of issues identified by Applicant**

- 2.1. Goldy filed for election as Mayor of the City of Toronto on July 27, 2018 in the election to be held October 22, 2018.
- 2.2. Goldy was not elected as Mayor in that election.
- 2.3. Goldy did not extend the period during which she was permitted to accept contributions for the purpose of erasing a deficit, beyond December 31, 2018.

- 2.4. Goldy filed the Financial Statement for the campaign period July 27, 2018 to December 31, 2018, on April 29, 2019<sup>1</sup> and attested that to the best of her knowledge, that it was true and correct.
- 2.5. Goldy's Financial Statement reported Contributions of \$124,140.77 and Expenses of \$130,345.91, with a resulting Deficit for the campaign of \$6,205.14. Goldy's Spending limit (i.e. the maximum amount of qualifying expenses that she was permitted to incur) was \$1,558,257.00.
- 2.6. Balgord submitted to the City of Toronto an application for compliance audit dated April 1, 2019<sup>2</sup> setting forth the grounds for believing that Goldy had contravened the *Act* in respect of election campaign finances. The Applicant suggested that Goldy had solicited and accepted contributions from persons outside Ontario. The Applicant suggested that a determination be made as to whether "funds intended for their [sic] campaign are being use as intended and properly recorded separately from her income at the time."
- 2.7. The Compliance Audit Committee of the City of Toronto on April 29, 2019 determined that a compliance audit in respect of the municipal election campaign finances of Goldy be carried out and on August 12, 2019 the City appointed William Molson CPA, CA to do so in accordance with subsection 88.33 of the *Act*. Appendix F provides a summary of the auditor's credentials.

### **3. Audit Approach and procedures, Scope, Experience, and Certain reporting requirements**

#### **3.1. Approach and procedures**

3.1.1. In accordance with subsection 88.33(12) of the Act the purpose of my compliance audit is to conduct an audit and report "any apparent contravention by the candidate".

3.1.2. My audit procedures included the following: a review of the Financial Statement as filed with the Clerk's Office; a review of submissions made to the Compliance Audit Committee; ongoing review of the *Act* and the 2018 Candidates' guide for Ontario Municipal and School Board Elections ("the Ontario Guide")<sup>3</sup>; consultation with subject-matter experts; a review of the Financial Statement auditor's working paper file; a review of copies of invoices provided by the Candidate to the City in connection with the rebate program, and other City documents; a review of certain personal bank records obtained from the bank; interviews and examination of documents and financial and other records including personal income tax materials provided by the Candidate; ongoing email and telephone exchanges with the above; public information; and preparation of my report.

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<sup>1</sup> The *Act* generally requires that the Financial Statement for the period ended December 31 be filed by 2:00 PM on the last Friday of the March following [MEA 88.25, MEA 88.30], being March 29, 2019 for the 2018 municipal election. However, the *Act* permits the Clerk to accept a return up to 30 days late [MEA 88.25], being 2:00 PM on April 29, 2019 for the 2018 municipal election.

<sup>2</sup> The *Act* provides [MEA 88.33] that a qualifying applicant may apply for a compliance audit of the candidate's election campaign finances, even if the candidate has not filed a financial statement under section 88.25.

<sup>3</sup> This guide "is a plain language guide for candidates and voters [that] does not have the force of law". Jackson v. Vaughan (City), 2009 CarswellOnt 1490, [2009] O.J. NO. 1057, 176 A.C.W.S. (3d) 384, 59 M.P.L.R. (4<sup>th</sup>) 55 at para 14.

The Candidate was generally not cooperative in responding to requests for information. Specific information requested as early as February, 2020, and on repeated occasions, was provided in part only on December 22, 2021. This lack of cooperation increased the length of time required to complete my audit. In some instances it was necessary to rely on the best available information when applying a “balance of probabilities” standard in order to arrive at a reasonable conclusion.

### 3.2. Scope

3.2.1. Significantly, item 3.1.1 above means that the scope of my engagement is to audit and report not only with regard to the specific issues identified by the Applicant, but also with regard to any other apparent contravention which might come to my attention during the audit. It is important to recognize that any apparent contraventions may subsequently be determined not to be actual contraventions.

3.2.2. In so doing, it is important to apply the term “apparent” consistently throughout the report and with a clear definition of the word in mind. Relevant modern definitions of the word “apparent” include that which is evident, plain, clear, or obvious, and also that which appears to the senses or mind, as distinct from though not necessarily opposed to, what really is the case.

### 3.3. Experience

3.3.1. My audit concluded that a significant portion of apparently reportable transactions were not reflected in the Financial Statement filed. These apparent omissions included expenses incurred but not reported, and contributions received but not reported. As well, the Candidate accepted contributions and incurred an expense after December 31, 2018, and appears to have accepted a material number and amount of contributions both before and after December 31, 2018 from unidentified contributors who may in many instances have been ineligible to contribute.

3.3.2. The Candidate reported a portion only of expenses incurred on or after registration on July 27, 2018, apparently taking a position that the expenses were evidently either campaign expenses or non-campaign expenses, or perhaps could be reasonably prorated as either campaign-related or non-campaign-related, on the basis that she was both a candidate and a political commentator. Significantly, the *Act* at 88.19(1) includes in expenses costs incurred “wholly or partly for use” in an election campaign. The *Act* does not contemplate a regime in which a Candidate is free to report only those portions of expenses that he or she considers as having been used in the campaign. If the *Act* permitted such prorating, reported compliance with the requirements of the *Act* would be substantially subjective and not readily permit subsequent verification. For this reason, the generally accepted conduct of municipal campaigns is to maintain a strict separation of campaign activities and expenses from non-campaign activities and expenses, so as to avoid an unintended inclusion in campaign expenses of costs that were for goods and services that were in fact entirely unrelated to the campaign.

3.3.3. At the same time, the Candidate stated that she was able to clearly distinguish contributions accepted as a candidate, from revenues received and accepted in the capacity of political commentator. Notably, a comparison of the pattern of receipt of the former with the latter, as set out at 4.4 below, evidences a close relation. As well, the timing of the unreported revenue corresponds to the timing of unreported campaign expenses.

3.3.4. The appropriate treatment of the transactions and the proper conduct of a campaign can be determined by reading the *Act* and the 2018 Candidates' Guide, and through enquiry and discussion with knowledgeable persons when considered necessary. While it would not be unreasonable to anticipate that the external auditor would be familiar with applicable requirements and to have reported transactions correctly, municipal election accounting is somewhat specialized and practitioners may have varying levels of experience. However, Goldy as a registered candidate was responsible to ensure the correct reporting of transactions in her Financial Statement and to otherwise comply with the provisions of the *Act*.

### 3.4. Certain requirements of the Municipal Elections Act

3.4.1. Subsection 88.25(1) of the *MEA* requires a candidate to file a financial statement "...in the prescribed form<sup>4</sup>, reflecting the candidate's election campaign finances."

3.4.2. Paragraph 88.24(1)1 specifies that "[t]he election campaign period begins on the day on which he or she files a nomination for office."

Paragraph 88.24(1)2 provides that the campaign period ends December 31, or a later date as a consequence of 88.24(1)4 which requires the filing of certain documents by December 31.

Hence Goldy's campaign period was from July 27, 2018 to December 31, 2018 and not beyond, as she did not extend the campaign as permitted under 88.24(1)4.

3.4.3. Subsection 88(1) reads as follows:

For the purposes of this Act, money, goods and services given to and accepted by a person for his or her election campaign, or given to and accepted by another person who is acting under the person's direction, are contributions. 2016, c. 15, s. 53 (1).

3.4.4. Paragraph 88.22(1)(b) require that all contributions be deposited into the campaign accounts.

3.4.5. Subsection 88.8(2) prohibits a candidate from accepting contributions outside the candidate's campaign period.

3.4.6. Section 88.16(1) prohibits a contribution of money that does not belong to the contributor. This is interpreted as meaning that a person may not contribute funds provided by another person for that purpose.

3.4.7. Paragraph 88.22(1)(o) requires contributions of money received in contravention of the *Act* be returned as soon as possible after the candidate becomes aware of same, or in the alternative in accordance with paragraph 88.22(1)(p) paid to the Clerk

3.4.8. Subsection 88.17(1) provides that a candidate may only obtain a loan from a bank or recognized lending institution, with the loan being paid directly into the campaign account.

3.4.9. Paragraph 88.9.1(1)(b) places a maximum limit of \$25,000.00 on the amount that a candidate and his or her spouse can contribute to his or her campaign.

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<sup>4</sup> Ontario Central Forms Repository Form Number 017-9503P at <http://www.forms.ssb.gov.on.ca/mbs/ssb/forms/ssbforms.nsf/SearchResults?Openform&MIN=&PRG=&BRN=&TIT=&NO=9503&NEW=&SRT=T&MAX=10&SRCH=2&ENV=WWE&STR=1>

3.4.10. Subsection 88.19(1), which is also discussed above at 3.3.2, provides that “costs incurred for goods and services by... a person wholly or partly for use in his or her election campaign are expenses.”

3.4.11. Paragraph 88.20(2) prohibits the incurring of an expense by a person or under the person’s direction, outside his or her campaign period.

3.4.12. Subsection 88.31(1) provides that a “candidate has a surplus if the total credits exceed the total debits, and a deficit if the reverse is true.” For purposes of the current discussion, “credits” may be read as “revenues” and “debits” as “expenses as defined by subsection 88.19(1).”<sup>5</sup>

3.4.13. Section 88.25(1) requires the timely filing of a return “reflecting the candidate’s election campaign finances.”

3.4.14. Sections 89 through 94.2 set out the Offences, Penalties and Enforcement provisions of the *Act*. The limitation period for a prosecution in respect of the 2018 election is December 31, 2022.

3.4.15. Paragraph 92(1)(b) sets out that it is an offense if the Financial Statement required to be filed under Section 88.25 is “incorrect or does not otherwise comply with that section”.

3.4.16. Section 93 provides that “no person shall obstruct a person making an investigation or examination under this *Act* or withhold, conceal or destroy anything relevant to the investigation or examination.”

#### **4. Findings**

##### ***4.1. Under-reported expenses during the campaign period (July 27, 2018 to December 31, 2018)***

My audit identified a total of \$86,398.49 in campaign expenses incurred but not reported in the Financial Statement. This is a contravention of paragraph 88.25(1)(a).

*Legal expenses: \$83,090.96*

4.1.1. The Candidate incurred \$64,973.06 in legal costs during October 2018 arising from her action against Bell Media which had with other media outlets declined to run advertising in support of her campaign, and had returned deposits previously paid by the campaign. These costs were invoiced by Clayton Ruby Professional Corporation as invoice #14475 included in materials provided to the City in connection with the rebate program. The Candidate reported legal costs of \$25,000.00 in her Financial Statement, and omitted the remaining \$39,973.06 also incurred.

4.1.2. As discussed above at 3.3.2 the *Act* does not permit a judgmental pro-rating of a particular expense, and requires the inclusion of the full amount of all expenses incurred “wholly or in part” for the campaign. As well, it is noted that Goldy described the action as “Goldy Campaign v Bell Media” in Internet broadcasts.<sup>6</sup>

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<sup>5</sup> Subsection 88.31(10) provides a transitional, further inclusion in “debits” applicable to the 2018 election. The application of this provision is discussed more fully below at 5.1.6.

<sup>6</sup> Broadcast dated October 16, 2018 as cited by Right Wing Watch “Faith Goldy is Preparing to Blame a Loss On Election Meddling”, October 16, 2018.

4.1.3. In addition to the above, Goldy paid \$43,117.90 to Bell Media for costs arising from the above action, as directed by the court in 2018. This expense was not reported in the Financial Statement.

*Other specific expenses: \$3,307.53*

4.1.4. *Phone and/or Internet expenses incurred after voting day:* \$144.08 Per invoice dated December 23, 2018 from Virgin Mobile Canada for telephone services, as provided by the Candidate to the City in connection with the City of Toronto rebate program.

4.1.5. *Advertising:* \$1,028.50 Remaining balance of invoice #2018-49 dated September 23, 2018 from Michael Onley for video production services, as provided by the Candidate to the City.

4.1.6. *Signs:* \$1,017.00 Per invoice 2851 dated October 4, 2018 from CR3 Consulting Services and Solutions Inc. for 1,000 H-frames, as provided by the Candidate to the City.<sup>7</sup>

4.1.7. *Expressions of appreciation:* \$25 Deposit previously paid as per undated invoice from Darik Horn for Legion, paid November 2, 2018, as provided by the Candidate to the City.

4.1.8. *Advertising – Below:* \$292.95 Per invoice 0052 dated November 25, 2018 from Noah Arnold – Leftover Media, as provided by the Candidate to the City.

4.1.9. *Office expense:* \$800.00 It appears that some use was made of the candidate's personal property on Eglinton Avenue East in Toronto for campaign purposes. Common practice is to provide an amount as a contribution in kind with a corresponding expense, and for a campaign of this size and duration \$200.00 per month for four months for a total of \$800.00 would not be unreasonable.

#### 4.2. Under-reported contributions during the campaign period

My audit identified a total of \$56,117.95 in contributions from residents of Ontario during the campaign period not reported in the Financial Statement. This is exclusive of additional revenues identified and addressed at 4.4 below. This is a contravention of paragraph 88.25(1)(a).

Of this amount, \$6,117.95 was from identifiable contributors, and hence reduces the identified deficit for the campaign. Because the specific source of the remaining \$50,000.00 has not been identified, there is a corresponding liability to return the funds or remit them to the Clerk, in accordance with paragraphs 88.22(1)(o) or (p). If the contributor is identified as an eligible contributor, the amount subject to return or forfeiture may be \$50,000.00 plus any previously eligible contribution, less \$2,500.00, made by that person.

*Funding of legal costs: \$55,000.00*

4.2.1. With reference to the \$64,973.06 in legal costs discussed above at 4.1.1, Goldy apparently received amounts from family members to fund this expense. Based on invoice 14475 from Clayton Ruby Professional Corporation, preliminary meetings with Goldy were

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<sup>7</sup> This is not the same as invoice 180559 also dated October 4, 2018 from Fastar Printing Inc. for \$1,017.00 for 200 coroplast signs.

held on October 3, 2018 and there were “circling back” discussions including discussion of the retainer, the following day.

On October 4, 2018 \$50,000.00 was received and deposited into Goldy’s personal bank account, from an apparent family member. Goldy has not provided requested information regarding the source and terms of this amount (e.g., if a loan, which would contravene subsection 88.17(1)). A draft for \$25,000.00 was purchased the following day from the candidate’s personal bank account, and the lawyer’s trust account shows the receipt of \$25,000.00 from Goldy on that day.

The Candidate’s electronic file “Campaign Donations Complete” shows that on October 9, 2018 Fay Bazos and Michael Bazos each contributed \$2,500.00 and that these amounts “went straight to Ruby, not through campaign account”.

On October 15, 2018 a draft for \$25,000.00 was purchased from the campaign account, and \$25,000.00 was deposited to the lawyer’s trust account the following day.

4.2.2. Based on the foregoing, it appears that the Candidate accepted funds of \$55,000.00 from family members in relation to the legal action, which is a campaign expense. Of this amount, \$30,000 was paid to the lawyer directly, in contravention of paragraph 88.22(1)(b) and \$25,000.00 was retained by the Candidate personally.

4.2.3. The *Act* at 88.22(1)(b) requires that all contributions of money be deposited to the campaign bank account, which did not occur in this case. The sources of \$5,000.00 of these funds have been identified and the related defect in the Financial Statement filed may be remedied by reporting the two contributions as required. However, the unidentified \$50,000.00 requires further treatment and would appear either to be returnable to the contributor or forfeit to the City in accordance with paragraphs 88.22(1)(o) or (p). As well, section 88.16(1) may be applicable. The *Act* does not contemplate that funds received by candidates from family sources for campaign purposes should be beyond the provisions of the *Act*.

*Other items \$1,117.95*

4.2.4. As noted at 4.1.9 above, it appears that some use was made of the candidate’s personal property on Eglinton Avenue East in Toronto for campaign purposes. Common practice is to provide an amount as a contribution in kind with a corresponding expense, and for a campaign of this brevity \$200.00 per month for four months for a total of \$800.00 would not be unreasonable.

4.2.5. Two invoices detailed at 4.1.7 and 4.1.8 above indicate that services totalling \$317.95 had been prepaid. This amount has been treated as a contribution by the Candidate in this report.

### 4.3. Transactions after the campaign period

4.3.1. As discussed at 3.4.2, 3.4.5 and 3.4.11 above, under subsection 88.8(2) Goldy was not permitted to accept contributions or incur expenses after the end of her campaign period on December 31, 2018.

4.3.2. *Contributions:* The table below provides details of certain contributions accepted after December 31, 2018 and apparently retained. Of the total such contributions of \$12,365.99, \$6,690.00 is from identified contributors and should be returned or



remitted to the City Clerk. The remaining \$5,675.99 comprises “Missing cheques Bank Contacted” and appears to be from unidentifiable sources and it is not clear whether these relate to amounts received before or after the expiration of the campaign period on December 31, 2018; because the contributors are apparently unidentifiable, this amount should be remitted to the City Clerk.

Date	Contributor	Cand/Spouse	Not >100.00	> 100.00	Other
10-Jan	Cici Yu		100.00		
26-Jan	Jeremy Baltazar		25.00		
06-Feb	Alexandre Chidlovski		30.00		
21-Feb	Ralph Rains		10.00		
26-Feb	Jeremy Baltazar		25.00		
12-Mar	Josef Vierzner	580.00			
23-Mar	Josef Vierzner	410.00			
24-Mar	Josef Vierzner	10.00			
24-Mar	Josef Vierzner	1,400.00			
24-Mar	Joseph Genova			1,700.00	
24-Mar	Alexandra Bonner			2,400.00	
25-Mar	"Missing cheques" per Candidate				5,675.99
		2,400.00	190.00	4,100.00	5,675.99

4.3.3. *Salaries – BELOW:* An additional invoice for \$500 dated March 20, 2019 from Alexandre Lavigne was included in materials provided by the Candidate to the City. Paragraph 88.20(2) prohibits the incurring of a campaign expense outside the campaign period, which ended December 31, 2018. While this may be a late-dated invoice for services rendered prior to December 31, 2018 for purposes of my report it has been treated as an additional expense outside the campaign period. The Candidate was asked to clarify the timing of this expense but did not respond.

4.4. *Other revenues received, and Issues identified by the Applicant*

4.4.1. The Applicant stated that Goldy had solicited and accepted contributions from persons outside Ontario. The Applicant suggested that a determination be made as to whether “funds intended for their [sic] campaign are being use as intended and properly recorded separately from her income at the time.”

4.4.2. The Applicant’s Reasons in applying for a compliance audit include the following:

“During the campaign Faith Goldy launched a lawsuit against Bell Media. She solicited donations of any amount from anywhere to support this lawsuit in contravention of the Municipal Elections Act. “I’m accepting donations from supporters of democracy WORLDWIDE.” She confirms money intended for the lawsuit was collected by her campaign.

“Source: [https://www.youtube.com/watch?time\\_continue=120&v=ip1qlfFgeOU](https://www.youtube.com/watch?time_continue=120&v=ip1qlfFgeOU)

“Source: <https://youtu.be/qxVnznVa88A?t=547>”

While these Internet links are no longer active, Balgord’s statement is accepted as correct and accurate with respect to Goldy’s solicitations of support. A copy of the advertisement is attached as Appendix E.

4.4.3. The invoice for legal services provides some detail of the services provided over the period October 3 through October 16, 2018, and shows that there was some discussion

of crowdsourcing, presumably for the purpose of paying legal expenses, as early as October 3 at the time the retainer arrangements were under discussion, and what rules the Law Society of Ontario might have. The references to crowdsourcing, as well as 4.4.2, indicate that the idea of using the Internet to fund legal costs was present from the initial stage of the legal proceedings.

4.4.4. In some instances, where the Candidate received contributions into her campaign account from non-residents of Ontario, these funds were returned to the contributor with a request that they donate to her personally, and the candidate provided a personal email address for that purpose. These requests appear to have been sent from the campaign website. Examples are provided in Appendices B, C and D to this report. Goldy has stated that she only solicited personal donations when she was “wearing her personal hat” and that requests were clearly not campaign related.

4.4.5. As detailed above at 3.4.4, the *Act* considers that “money, goods and services given to and accepted by a person for his or her election campaign” are contributions. The wording suggests that in order to be considered a contribution, there must be mutual intent regarding the purpose of the amount given. The question arises as to whether an amount given in order to fund campaign expenses is a contribution if a candidate mistakenly believes that the particular expenses being funded are not campaign expenses. Clearly, the answer is necessarily Yes, as the alternative relieves the candidate of his or her responsibility to understand the requirements of the *Act*, and would give rise to potentially significant abuse if so interpreted.

4.4.6. In the present case, the evidence is that the candidate broadly solicited, was given, and accepted contributions for the purpose of paying campaign expenses and did not report them in her Financial Statement. It is also the case that the revenues received in many instances would be ineligible contributions from non-residents of the province, as corroborated at 4.4.14 below, and hence required to be either returned or forfeit to the City Clerk. The onus is on the candidate to file a correct Financial Statement and upon request provide supporting information, given that the Candidate has the care and control of the relevant records.

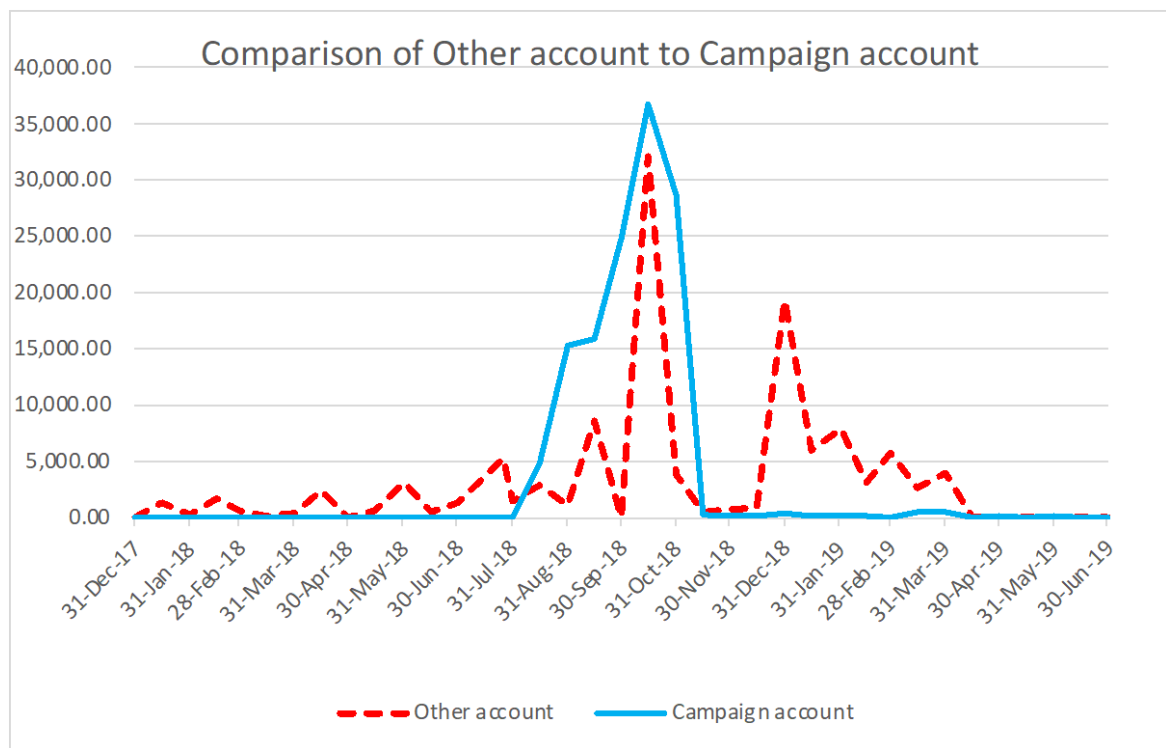
4.4.7. The Candidate did not cooperate in the making of such a determination, beyond apparently taking a position that both contributions and expenses could be reasonably allocated or pro-rated as either campaign-related or non-campaign-related, on the basis that she was both a candidate and a political commentator.

4.4.8. My procedures included a review of how campaign expenses were funded, of one personal (i.e., non-campaign) bank account and of certain personal tax return filings. The timing of major expenses was noted, and revenues deposited to both the campaign account and the personal account sub-totaled bi-monthly for the period from January 1, 2018 to March 31, 2019. In so doing, revenues deposited to the personal bank account were scrutinized to remove items that were clearly not related to the campaign, including potentially unrelated income such as rental or other recurring income, and revenues from personal or family sources. Revenues addressed elsewhere in this report were also excluded in order to prevent double-counting. Remaining transactions received from financial

intermediaries (e.g., Stripe<sup>8</sup>) were grossed-up on an individual basis to account for the processing fees. The remaining population in the personal account included a large volume comprised of even-dollar transactions such as \$25.00, \$50.00, \$100.00, and so on.

4.4.9. There were two periods during which the Candidate faced large financial commitments to pay campaign expenses: in October 2018 in order to fund \$64,973.06 in legal expenses as detailed at 4.1.1 above, and related costs of \$43,117.90 due to be paid February 1, 2019 as detailed at 4.1.3 above. The total of these amounts is \$108,090.96 of which \$25,000.00 was paid for from the campaign bank account and reported in the Financial Statement, and \$5,000.00 paid for by identifiable contributors and not reported in the Financial Statement. The remainder of \$78,090.96 was funded from other sources and was not reported in the Financial Statement. This implies contraventions of paragraph 88.22(1)(b) and subsection 88.25(1).

4.4.10. The chart below sets out the apparently contributed revenues on a bimonthly basis, as calculated at 4.4.8 above, for the campaign bank account and for the personal bank account of the Candidate referred to at 4.4.8 above. The underlying data is provided in Appendix A. The solid blue line shows the contributions deposited to the campaign account. The dotted red line shows the apparent contributions deposited to the other, personal bank account, and these revenues are consistent with the major funding requirements in October 2018 and January 2019.



Data sub-totaled bi-monthly, except: July 26 datapoint added, being the day before the start of the campaign period; Feb 1 revenue included in Jan 31, 2019.  
 Payment of \$43,117.90 in legal costs (4.1.3) on February 1, 2019 was not made from the campaign account.

<sup>8</sup> Commonly used in political and other campaigns where numerous amounts are collected by means of the Internet.

4.4.11. Based on available information, the pattern of calculated revenues deposited to the other personal account corresponds to the pattern of revenues deposited to the campaign account during 2018, as well as to peak anticipated campaign funding requirements. The amount deposited to the other personal bank account during the campaign period is \$71,577.94 and the amount for the period from January 1, 2019 to February 1, 2019 when the second financial commitment was paid, is \$13,979.83. In addition, during the period from February 2, 2019 to March 31, 2019 a further \$15,560.23 of such revenue comprised of sixty-nine separate contributions was deposited to the other, personal account as shown in the chart; while the payment of costs to Bell Media was made on February 1, it appears that some personal resources were used to do so and the subsequent receipts effectively reimbursed Goldy for the cost of doing so. The total of these three amounts is \$101,118.00.

4.4.12. These funds appear on the balance of probabilities to have been “given to and accepted by a person for his or her election campaign” and as such are contributions accepted both within and after the Candidate’s campaign period. These three amounts have not been accounted for, wholly or in part, in the Financial Statement, and the Candidate has not provided information that refutes the Applicant’s assertion that much of these revenues are from persons not resident in Ontario and hence ineligible to contribute to her campaign. For purposes of this report, proceeding on the basis of the best information available, these revenues appear to be ineligible contributions not returned to the contributors and hence are payable to the Clerk.

#### *Corroboration*

4.4.13. The Candidate provided a copy of her personal tax return, as requested, by way of redacted pdf. This material included Schedule T2125 “Statement of Business or Professional Activities” and reported income under Industry classification 519190, “Other information services”. The Candidate also provided as support for the revenue amounts therein, a listing of individual Stripe revenue before any processing discount, for the period from October 6 to the end of the year. Gross revenue reported in the Schedule is approximately 90% of revenues received by Stripe. Because the gross revenue reported in the T2125 exceeded that same amount reported elsewhere at line 162 of the return, and because the expense detail did not add up to the total reported in the schedule, it appears that in the redacting process the amounts in certain fields may have been altered, and that the copy provided is not a true, redacted copy of the material requested. As well, the timing of the individual transactions did not correspond with Stripe activity taking place within her other, personal account. The Candidate was asked to review the T2125 provided and confirm its accuracy, but did not respond. In the absence of further and sufficient information, the Stripe information is accepted as representing those revenues reported for income tax purposes.

Accordingly, it appears that the additional revenues of \$71,577.94 as calculated above at 4.4.11 received during the campaign period, were not reported on the Candidate’s personal tax return. There is no evidence that these revenues pertained to an incorporated entity legally distinct from Goldy, and the treatment of such revenues as untaxable “gifts” is most unlikely to be consistent with the Canada Revenue Agency’s interpretation of the *Income*

*Tax Act.*<sup>9</sup> Accordingly, the Candidate's personal tax filings tend to corroborate a conclusion that these revenues are campaign revenues.

4.4.14. It is also noted that materials provided by the Candidate included a file "Copy of Stripe 2019" which appears to show 2019 revenues processed by this financial intermediary. This total would not include all amounts received by other means such as e-transfer. Notations to this report, apparently made to calculate applicable (in the candidate's view) Harmonized Sales Tax, treat 39% of revenues as not subject to HST, which suggests a "best estimate" based on the limited available information that 39% of revenues set out at 4.4.11 were from outside Canada. Amounts contributed by Canadian residents not in Ontario, would be from additional ineligible contributors.

#### 4.5. Improper return of contribution

4.5.1. A contribution for \$200.00 from Chris Avila o/a Canadian Marine Aquaculture was returned to the contributor. However, the contributor was an unincorporated entity and hence eligible to contribute. While the treatment in the Financial Statement is incorrect, it further confirms that the Candidate understood the requirement of paragraph 88.22(1)(o) to return ineligible contributions. Because the campaign ended in a deficit position, this return of contribution did not involve a diversion of any surplus otherwise payable to the Clerk.

#### 4.6. Allocation errors

In the course of my audit a small number of allocation errors were noted. These errors are contraventions of subsection 88.25(1). These errors did not impact the calculated deficit.

4.6.1. *Phone and/or Internet expenses:* \$536.22 was incorrectly reported as *Interest charged on loan until voting day*.

4.6.2. *Other income and Advertising:* \$38,059.53, being deposits returned for advertising that was subsequently cancelled by the particular media outlet, were netted in the *Advertising* expense account. A stricter accounting would show the amount as both an *Advertising* expense and as *Other income*.

4.6.3. *Signs:* \$1,017.00 paid to Faster Printing for signs was incorrectly reported as *Advertising*.

4.6.4. *Salaries ABOVE and Salaries BELOW:* \$109.09. Salary paid to Michael Snape for services that apparently straddled voting day was treated as entirely *Salaries ABOVE* rather than allocated to correct categories.

### 5. Treatment of Excess of Expenses over Revenues for the Campaign

Section 5.1 below provides a general discussion of selected significant changes in the Act from 2006 onwards. Section 5.2 discusses the application of this framework to the Candidate's Financial Statement.

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<sup>9</sup> Further discussion of this point may be found by Googling: <https://www.canada.ca/en/revenue-agency/services/tax/businesses/topics/sole-proprietorships-partnerships/what-a-business.html> and by referring to archived CRA Interpretation IT459 Adventure or Concern in the Nature of Trade

5.1. Evolving legislation

5.1.1. The Surplus or Deficit of a particular campaign is calculated by deducting the sum of total expenses and amounts properly returned<sup>10</sup> to the candidate, from total revenues. As well, for the 2018 election a transitional rule also allowed the deduction of any deficit from a previous campaign for the same office. The disposition of the surplus or deficit is subject to various rules including those set out in the table below. There have been significant changes over the past decade and consistent treatments of the surplus or deficit in financial statements as actually filed have not yet emerged.

	2006	2010	2014	2018	2022
<b>Definition of Surplus or Deficit</b>	79	79	79	88.31(1)	
<b>Can a Deficit be carried forward to the next election?</b>	Yes	Yes	Yes	No	Not anticipated
<b>Can a Deficit be carried forward from the previous election?</b>	Yes 79(3)	Yes 79(3)	Yes 79(3)	Yes 88.31(10) transitional rule	Not anticipated
<b>Is there a limit on Expressions of appreciation?<sup>11</sup></b>	No	No	No	Yes 88.20(9)	Anticipated
<b>Who gets the Surplus?</b>	City Clerk holds in trust <sup>12</sup>	City Clerk holds in trust <sup>12</sup>	City Clerk <sup>12</sup>	City Clerk <sup>12</sup>	
<b>Are Surplus monies available for the next election?</b>	Yes 79(8)	No	No	No	Not anticipated

The above table presents the information in general form. References are to the legislation in force at December 31 of that year. For application to a specific situation, reference should be made to the specific legislative requirement as the above treatments may be subject to additional considerations

<sup>10</sup> These being the return of contributions permitted under subsection 88.31(6).

<sup>11</sup> Prior to the 2018 election, there was no separate spending limit for parties and other expressions of appreciation. This limit was introduced for the 2018 election to address an issue arising as a consequence of new rules first applicable in 2010. Prior to the 2010 election, surplus funds from a particular campaign were paid to and held in trust by the City Clerk, and returned to the candidate if he or she ran for the same office in a subsequent election. This allowed successively successful candidates to build up substantial “war chests” of funds for future use, which was perceived as conferring an unfair advantage upon incumbents. Accordingly, starting in 2010 surplus funds were payable to the City Clerk and were not made available for subsequent campaigns.

In apparent response, some candidates in the 2010 and 2014 election cycle held large parties and events after polling day or made gratuitous payments to third parties after polling day, thereby incurring correspondingly large expenses that were not subject to spending limits but reduced the calculated surplus and hence the amount otherwise payable to the City Clerk. In response to the view that this outcome was not in keeping with legislative intent, a separate spending limit for parties and other expressions of appreciation was introduced at subsection 88.20(9) and first applicable to the 2018 election. Amendments were made at the same time to the regulations under the Act setting that limit as 10% of the general spending limit.

<sup>12</sup> Portions of the surplus may be returned to a candidate in special circumstances, for example, where there are costs associated with a compliance audit (section 88.32).

If the result of the above calculation at 5.1.1 is greater than zero, there is a surplus, which is paid to the City Clerk upon filing the Financial Statement; by implication, once all the bills for the campaign are paid, and any permitted amounts are returned to the candidate, the funds remaining in the bank are enough, but not more than enough, to pay the City Clerk.<sup>13</sup> Up to and including the 2018 election, candidates were permitted to use a current surplus to repay themselves for deficits arising in a previous campaign for the same office, and deduct that from the amount payable to the City Clerk, but under current legislation this will not be the case in future.

If the calculated result at 5.1.1 is less than zero, there is a deficit; by implication, the funds remaining in the bank are not enough to cover remaining accounts payable from the campaign.

In some instances, historically, where the candidate had already paid the suppliers, a candidate might prefer to account for a deficit as a contribution in kind from the candidate, and the Financial Statement would show a surplus or deficit of Nil. In other instances, where a candidate intended to run in the following election and anticipated being able to repay himself the current deficit from a subsequent campaign for the same office, the deficit was reported as such. The Financial Statement for the subsequent election would incorporate the previously reported deficit and deduct this amount from any surplus amounts otherwise payable to the City Clerk, as described above.

Where the supplier of the goods and services had not been paid, the liabilities would be considered the responsibility of the candidate to pay; and could potentially be considered to be contributions from the supplier, with related contraventions of the *Act* arising. The Candidate was asked whether all expenses that appeared in the financial statements or in materials provided to the City in connection with the rebate program had been paid, and if so whether third parties had paid these expenses, but no response was received. In the absence of information I was unable to conclude on this point.

5.1.2. For completeness of discussion, it is noted that under the new rules applicable to the 2018 election, candidates are no longer able to carry deficits forward to a subsequent campaign. As a result, while in previous campaigns an excess of expenses over revenues would commonly be reported as a deficit in order to facilitate its carry-forward to and recovery from a subsequent election campaign, this reasoning no longer applies.

5.1.3. Paragraph 88.19(3)3 specifically includes audit fees in the definition of campaign expenses. Although subsection 88.20(2) prohibits a candidate from incurring expenses outside his campaign period, subsection 88.20(3) carves out an exception that explicitly permits audit expenses to be incurred after the campaign period has ended.

5.1.4. Since the audit necessarily takes place after the campaign period has ended, the logic behind this exception is clear. It follows, therefore, that since the candidate cannot

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<sup>13</sup> A vexatious issue in attempting to apply these provisions correctly arises from the fact that the campaign bank may remain open for some months after December 31 while bills are paid, amounts (if any) are returned to the candidate, and the audit completed, and during this period bank charges will likely continue to apply. Historically, some candidates cover this amount personally on the basis that it is beyond the delineated scope of the Act, while others will accrue an amount as at December 31 to cover these anticipated costs. The second treatment is not clearly consistent with legislative requirements.

accept contributions after the end of the campaign period (in this case December 31), and there is no requirement to retain a reserve in the campaign account to pay for a mandatory audit, it must be possible for a candidate to pay for that audit despite a lack of remaining campaign funds from which to do so. Accordingly, the payment of the audit expense by the candidate should not be considered a contribution governed by section 88.8 and 88.9.1.

5.1.5. For completeness of discussion, it is important to say that it does not seem possible to say the same in respect of any other unpaid expense that may exist at the end of the campaign period. It is only the audit expense, as an expense incurred after the campaign period, that requires this treatment.

Where a candidate has other unpaid campaign expenses, that were incurred prior to the end of the campaign period, that are not covered by revenues and hence are included in an anticipated or calculated deficit, the candidate has the option of extending the campaign period for up to another six months, in order to raise more money to pay the bills from the campaign bank account. However, where the candidate has paid suppliers and foregoes the opportunity to extend the campaign and be reimbursed from the campaign bank, it may reasonably be concluded that such amounts are Contributions in kind, and are therefore subject to the limitations of subsection 88.9.1(1) and the rules at section 88.22.

While this interpretation might appear under certain circumstances to impose an obligation for a candidate to extend a campaign-in-deficit, or a campaign that may or may not be in deficit, and at least attempt to raise additional funds, and to face potential operation of subsection 88.23(2), an alternate interpretation that does not treat such amounts as Contributions in kind and subject to the limit on contributions at the end of the campaign period, would have the effect of nullifying subsection 88.9.1(1). In my view this is not a reasonable construction of the *Act*, as it would permit a candidate to “enter by the back door, where the front door has been barred.”

5.1.6. Subsection 88.31(10) sets out a transitional provision for the 2018 election, which has the effect of including any deficit arising in the 2014 or subsequent byelection for the same office, in the calculation of the 2018 surplus or deficit. Goldy was not a candidate in the 2014 or a subsequent byelection for the office of Mayor. Accordingly, the potential impact of subsection 88.31(10) is not considered further in this report.

## 5.2. Deficit reported by the Candidate and Impact on total Candidate contributions

5.2.1. The Candidate reported a deficit of \$6,205.14 in her Financial Statement as filed. The *Act* provides a regime at paragraph 88.24(1)4 whereby a Candidate in a deficit position on December 31 can upon filing an appropriate form (“Form 6”) extend the ending date of the return and continue to accept contributions in order to reduce the deficit. Goldy did not extend the campaign beyond December 31, 2018.

5.2.2. My audit identified additional campaign expenses of \$86,398.49 as detailed at 4.1 above and additional identifiable contributions of \$6,117.95 as detailed at 4.2 above, which together increase the deficit for the campaign from \$6,205.14 to \$86,485.68. It therefore appears that Goldy contributed a total of \$87,603.63<sup>14</sup> to her campaign and, after excluding the audit fee of \$6,215.00, thereby exceeded the permitted contribution limit of \$25,000

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<sup>14</sup> Being the sum of her identified contributions of \$1,117.95 and the deficit of \$86,485.68.



provided at paragraph 88.9.1(1)(b) by \$56,388.63. This is an apparent contravention of subsection 88.9.1(1).

**6. Restrictions and limitations**

- 6.1. This report was prepared for the City of Toronto regarding the election finances of Faith Goldy in the election held October 22, 2018, as requested by the Compliance Audit Committee of the City of Toronto. This report is not to be used for any other purpose and I disclaim any responsibility for losses or damages incurred as a result of the use of this report for any other purpose.
- 6.2. I am under no obligation to review or revise the contents of this report in light of information that becomes known to me after the date of this report, although I reserve the right to do so.

Respectfully submitted



Chartered Professional Accountant, Licensed Public Accountant  
January 13, 2022  
Toronto, Ontario

## APPENDIX A - DATA FOR COMPARISON OF OTHER ACCOUNT TO CAMPAIGN ACCOUNT

<--- FOR THE GRAPH --->

Period*	Other A/C					Date	Other account	Campaign account	Sub-total	
	Total	Recurring	Other	Conclude	Other					
0	31-Dec					31-Dec-17	0.00	0		
1	15-Jan	3,400.00	2,000.00			15-Jan-18	1,400.00	0		
2	31-Jan	332.57				31-Jan-18	332.57	0		
3	15-Feb	3,691.63	2,000.00			15-Feb-18	1,691.63	0		
4	28-Feb	685.00				28-Feb-18	685.00	0		
5	15-Mar	2,170.00	2,000.00			15-Mar-18	170.00	0		
6	31-Mar	370.00				31-Mar-18	370.00	0		
7	15-Apr	4,395.08	2,000.00			15-Apr-18	2,395.08	0		
8	30-Apr	0.00				30-Apr-18	0.00	0		
9	15-May	2,686.77	2,000.00			15-May-18	686.77	0		
10	31-May	3,143.10				31-May-18	3,143.10	0		
11	15-Jun	2,576.33	2,000.00			15-Jun-18	576.33	0		
12	30-Jun	1,345.74				30-Jun-18	1,345.74	0		
13	26-Jul	7,332.02	2,000.00			26-Jul-18	5,332.02	0.00	18,128.24	
14	31-Jul	1,430.00			1,430.00	31-Jul-18	1,430.00	0.00		
15	15-Aug	4,856.00	2,000.00		2,856.00	15-Aug-18	2,856.00	4,860.66		
16	31-Aug	1,526.92		351.92	1,175.00	31-Aug-18	1,175.00	15,290.40		
17	15-Sep	9,676.01	1,000.00		8,676.01	15-Sep-18	8,676.01	15,941.89		
18	30-Sep	0.00			0.00	30-Sep-18	0.00	24,813.94		
19	15-Oct	84,108.38	2,000.00	50,000.00	32,108.38	15-Oct-18	32,108.38	36,762.99		
20	31-Oct	4,986.07		1,158.70	3,827.37	31-Oct-18	3,827.37	28,682.44		
21	15-Nov	2,522.10	2,000.00		522.10	15-Nov-18	522.10	300.88		
22	30-Nov	16,808.76		15,999.73	809.03	30-Nov-18	809.03	192.99		
23	15-Dec	2,852.07	2,000.00	20.00	832.07	15-Dec-18	832.07	130.18		
24	31-Dec	19,341.98			19,341.98	31-Dec-18	19,341.98	366.29	71,577.94	
25	15-Jan	8,045.42	2,000.00		6,045.42	15-Jan-19	6,045.42	144.75		
26	31-Jan	7,904.41			7,904.41	31-Jan-19	7,904.41	144.13	13,979.83	
27	15-Feb	26,292.78	2,000.00	21,100.00	3,192.78	15-Feb-19	3,192.78	136.06		
28	28-Feb	5,785.43			5,785.43	28-Feb-19	5,785.43	72.22		
29	15-Mar	4,782.02	2,000.00	162.18	2,619.84	15-Mar-19	2,619.84	589.41		
30	31-Mar	7,907.81		3,915.63	3,992.18	31-Mar-19	3,992.18	516.19	15,560.23	
31	15-Apr					15-Apr-19	0.00	0.00		
32	30-Apr					30-Apr-19	0.00	166.19		
33	15-May					15-May-19	0.00	0.00		
34	31-May					31-May-19	0.00	144.74		
35	15-Jun					15-Jun-19	0.00	0.00		
36	30-Jun					30-Jun-19	0.00	47.94		
					101,118.00		92,708.16	119,246.24	129,304.29	119,226.24

APPENDIX A

## APPENDIX B - RETURNED CONTRIBUTION WITH SOLICITATION



View in browser | Français



### Hi FAITH GOLDY CAMPAIGN TORONTO ONTARIO,

The money transfer you sent to [XXXXXXXXXX] for the amount of \$250.00 (CAD) was accepted.

Details of the Transfer:

**Message:** Thank you so much for donating. Unfortunately, we can't accept your donation bc you're in AB. If you'd like to make one to me personally [faithgoldy@gmail.com](mailto:faithgoldy@gmail.com)

Please do not reply to this email.

FAQs | This is a secure transaction 



INTERAC e-Transfer  
The smart, secure way to send your own money.

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This email was sent to you by Interac Corp., the owner of the *Interac* e-Transfer service, on behalf of TD Canada Trust.

Interac Corp.  
Royal Bank Plaza, North Tower, 200 Bay Street, Suite 2400  
P.O. Box 45, Toronto, ON M5J 2J1  
[www.interac.ca](http://www.interac.ca)

# Hi FAITH GOLDY CAMPAIGN TORONTO ONTARIO,

The money transfer you sent to [XXXXXXXXXX] for the amount of \$250.00 (CAD) was accepted. *002-4*

## Details of the Transfer:

**Message:** Thank you so much! Unfortunately, we can't accept this donation bc of campaign jurisdiction. If you wish to donate privately send to [faithgoldy@gmail.com](mailto:faithgoldy@gmail.com). Thank you again!

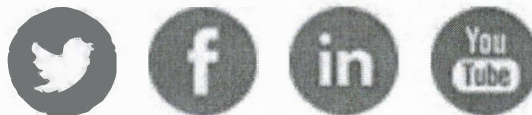
Please do not reply to this email.

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This email was sent to you by Interac Corp., the owner of the *Interac e-Transfer* service, on behalf of TD Canada Trust.

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P.O. Box 45, Toronto, ON M5J 2J1  
[www.interac.ca](http://www.interac.ca)

*891*

# Hi FAITH GOLDY CAMPAIGN TORONTO ONTARIO,

The money transfer you sent to [XXXXXXXXXX] for the amount of \$100.00 (CAD) was accepted.

## [XXXXXXXXXX]'s Message:

THANK YOU FAITH. I ADMIRE AND BELIEVE IN YOU!....

Details of the Transfer:

**Message:** Thanks so much, Joe! Unfortunately we can't accept this donation bc of campaign jurisdiction. If you would like to donate personally send to [faithgoldy@gmail.com](mailto:faithgoldy@gmail.com). THANK YOU!

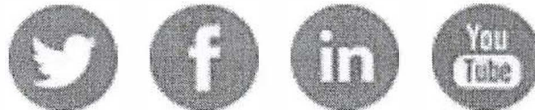
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## APPENDIX E - EXAMPLE OF BROADCAST SOLICITATION

Excerpted from Canadaland article, May 6, 2019 - Canadaland.com

During the fundraiser, Goldy said (<https://www.youtube.com/watch?v=ip1qIfFgeOU>) she was “accepting donations from supporters worldwide” and provided her personal website, Stripe account, Bitcoin address, and email for donations.



Goldy’s October 5th “URGENT: I’M SUING THE MEDIA” video unsubtly declared that she was “accepting donations from defenders of democracy WORLD WIDE.”

In addition, her expense filings show that, in reply to out-of-province residents who were refunded after they tried to donate via Interac e-Transfer, Goldy’s campaign said they could donate to her personally. The campaign provided her personal email address for them to do so.

## **APPENDIX F**

### **AUDITOR'S CREDENTIALS**

#### **William Molson CPA**

Will Molson is a licensed public accountant providing assurance and business advisory services primarily to not-for-profit organizations. His professional experience spans more than 30 years including 15 years in a large firm environment, servicing small, medium and large domestic and international clients. He has significant experience in election audits, conducting government tax audits and managing tax appeals. He has audited more than 300 election and riding association returns.

Will is a Chartered Professional Accountant; Certified Public Accountant (Illinois); Certified Management Accountant; and holds a Master's degree in Business Administration and a Certificate in Dispute Resolution (University of Toronto).

Will was a member of the former [The] Public Accountants Council for the Province of Ontario; former Chair of the Public Accounting Licensing Board of the Chartered Professional Accountants of Ontario; member of the former Chartered Professional Accountants of Canada, Federal Elections Task Force Advisory Committee; and is a member of the C.D. Howe Institute.