



## CITY OF HAMILTON

---

**DECISION of the  
ELECTION COMPLIANCE AUDIT COMMITTEE**  
established under Section 81.1(1) of the *Municipal Elections Act, 1996*  
**A COMPLIANCE AUDIT APPLICATION RESPECTING THE ELECTION  
CAMPAIGN FINANCES OF SAM MERULLA, CANDIDATE, WARD 4**

---

With respect to the meeting held on July 13, 2015 to deal with the application submitted by Ms. Vivian Saunders concerning the Financial Statement of Sam Merulla:

The Applicant's statement that post campaign day expenses appear excessive and could therefore be indicative of misallocation is speculative and is not supported by substantive evidence.

In relation to the concerns about associated corporations, there was evidence heard by the Committee during the public hearings that satisfied the Committee that the corporations are not associated with one another as under Section 72 of the *Municipal Elections Act, 1996* (MEA).

In relation to the concerns about corporations being valid, there were no compelling reasons for the Candidate to investigate these contributors.

The refund of the nomination fee has been included in the total contributions.

The Applicant's statement that brochure and phone cost expenses appear excessive and could therefore be indicative of misallocation, is speculative and is not supported by substantive evidence.

The \$500 amount that was included in the Financial Statement for the audit fees was an appropriate estimate given that the invoice for services was not received until after the filing date. Including the additional cost of \$443.55 would have no impact on the spending limit for the campaign.

In relation to the concerns about trade unions not holding bargaining rights, there was evidence heard by this Committee during the public hearings that satisfied the Committee that the contributors are trade unions that hold bargaining rights.

Accepting a contribution from a contributor who exceeds the \$5,000 contribution limit is not a contravention of the MEA by the Candidate unless he has explicit knowledge of that fact and does not return the contribution as soon as possible. The Applicant did not establish this on reasonable grounds. The Committee is of the opinion that the Candidate was not aware of possible excess contributions.

The Committee is in agreement that there has not been a contravention of the MEA. In the Superior Court rulings of *Lancaster v. Compliance Audit Committee et al.*, 2013 ONSC 7631 and *Vezina v. Parrish*, 2013 ONSC 2368, it was held that the Committee, not the Applicant, must believe on reasonable grounds that the Candidate has contravened the MEA before an audit is ordered.

The Committee does not order a compliance audit.

Dated at the City of Hamilton July 28, 2015

Written and approved by the following Committee Members:

Ross Anderson, Chair

Barry Gilbert, Vice Chair

John Klein

Linda Lister