

Report to: York Region Joint Compliance Audit Committee

May, 18, 2023

Subject: Markham City Clerk's Report on Over-Contributions in the 2022 Markham Municipal Election: Najmus Saqib Agar

Prepared by: Kimberley Kitteringham, City Clerk / Returning Officer

Recommendation:

1. That the report titled 'Markham City Clerk's Report on Over-Contributions in the 2022 Markham Municipal Election: Najmus Saqib Agar, be received; and,
2. That the York Region Joint Compliance Audit Committee recommend that this matter:
 - a. Be referred to independent legal counsel to proceed with action against the named contributor for an over-contribution to Markham City Council candidates in the 2022 Markham Municipal Election under Section 88.9 of Ontario's *Municipal Elections Act*; or,
 - b. Be resolved without further consideration of legal action against the named contributor under Ontario's *Municipal Elections Act*.

Purpose:

To advise and seek direction from the York Region Joint Compliance Audit Committee on an apparent violation of the Ontario *Municipal Elections Act*'s campaign contribution limits in the 2022 Markham Municipal Election.

Background:

In Ontario, municipal council and school board elections are regulated by the *Municipal Elections Act, 1996 (MEA)*. As part of an overall election finance governance framework, the *MEA* establishes rules around the value a person can contribute to a candidate or third party advertiser's election campaign. By law, a person can donate a maximum of:

- \$1,200 to any one candidate or third party advertiser; and,
- \$5,000 total to candidates running for office on the same municipal council or school board, or to third party advertisers registered in the same municipality.

After an election, all candidates and third party advertisers are legally required to file a financial statement with the municipal clerk outlining their campaign's income and expenses. As part of this statement, candidates and third party advertisers have to disclose the name and address of every person who donated over \$100 to their election campaign. Documents filed under the *MEA*, including campaign financial statements and any supporting reports, are expressly classified as public records and open to inspection until the end of their legislated lifecycle.

After the *MEA*'s statutory filing deadline has passed, the municipal clerk is required to review the individual contributions reported in each candidate and third party advertiser's financial statement, and on the basis of this information, determine whether either of the contribution limits described above appear to have been exceeded. If one appears to have been exceeded, the municipal clerk will prepare a report outlining the potential violation, and convene a public meeting of the municipality's compliance audit committee to consider this report and render a recommendation on whether to take legal action against the contributor.

In October 2022, the City of Markham hosted an election for its City Council and local school board trustee offices. Candidates and third party advertisers could register with Markham's City Clerk starting on May 2, 2022 and accept campaign contributions until January 3, 2023. Financial statements were due to Markham's City Clerk by 2 PM on March 31, 2023, with a 30-day late filing window ending at 2 PM on May 1, 2023.

Discussion:

During the Markham City Clerk's review of the campaign financial statements filed by candidates and third party advertisers in the 2022 Markham Municipal Election, a contributor listed by the name of Najmus Saqib Agar was identified as appearing to have exceeded the MEA's \$5,000 total contribution limit to candidates running for office on Markham City Council.

The table below summarizes each contribution to Markham City Council candidates identified as being associated with this potential campaign finance infraction:

Name	Address	Receiving Candidate	Contribution Amount (\$)	Contribution Date
Najmus, Saqib	707-9700 Ninth Line, Markham	Amanda Collucci	\$1,200.00	2022/06/15
Najmus Agar	707-9700 Ninth Line, Markham	Jim Jones	\$1,200.00	2022/10/24
Najmus Saqib Agar	707-9700 Ninth Line, Markham	Keith Irish	\$1,200.00	2022/07/29
Najmus Agar	707-9700 Ninth Line, Markham	Michael Chan	\$1,200.00	2022/09/28
Najmus Agar	707-9700 Ninth Line, Markham	Andrew Keyes	\$1,200.00	2022/09/01
Najmus Saqib Agar	707-9700 Ninth Line, Markham	Alan Ho	\$1,200.00	2022/09/01

Total reported contributions: \$7,200.00

Under the MEA, the York Region Joint Compliance Audit Committee is required to convene within 30 days of receiving this report and decide whether to recommend the commencement of legal proceedings against the contributor. A public meeting will be held within this timeframe by Markham's City Clerk for the Committee to formally receive, consider, and render a decision on this report. Affected parties will be notified of and invited to this meeting to participate in the Committee's consideration of this potential campaign finance infraction.

Attachment(s):

- Campaign financial statements (2022 Markham Municipal Election)
 - Amanda Collucci
 - Jim Jones
 - Keith Irish
 - Andrew Keyes
 - Michael Chan
 - Alan Ho