Office of the Integrity Commissioner

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STRICTLY CONFIDENTIAL

INVESTIGATION REPORT

2101, 2104, 2106 and 2107

BY JAMIE PYTEL

INTEGRITY COMMISSIONER for

THE CITY OF EDMONTON

Report Date:	**May 25, 2021**
To:	**City Council for The City of Edmonton**
Re:	***Council Code of Conduct Bylaw 18483*** **Complaints 2101, 2104, 2106 and 2107 (the "Complaints")**
Respondent:	**Councillor Mike Nickel**

SUMMARY AND FINDINGS

Complainants 2101, 2104, 2106 and 2107 (the "Complainants") allege they contacted Councillor Mike Nickel on issues related to his official duties as a City of Edmonton Councillor. He then used their email addresses to send them communications seeking support for his mayoral campaign for the October 2021 Municipal Election. They allege this is contrary to Part K, section 5 of the *Code of Conduct* dealing with "Elections and Campaigning", which prohibits Council Members from using email distribution lists that are used for official duties for campaign activities and communications.

The Complainants provided information to support their allegations. In response, Councillor Nickel indicated he had information about these Complaints, but he would not specifically answer the allegations. Councillor Nickel asserted that there is no obligation in the *Code* to disclose this information and also cited sections 11(c) and 13 of the *Canadian Charter of Rights and Freedoms* (rights against self-incrimination) and 11(d) (presumption of innocence until proven otherwise). He also alleged that the Complaints are brought in bad faith.

I find that when Council passed the *Code of Conduct*, there was an implied obligation on Council Members to disclose information in *Code* investigations. Councillor Nickel's suggestion that there is no duty to disclose information is without merit.

I find that Councillor Nickel's *Charter of Rights* arguments are irrelevant and without merit in *Code* proceedings, as these are not criminal proceedings.

Councillor Nickel also suggests that the Complaints were brought in bad faith, but gave no information to support that allegation. Therefore, I find his allegation that the Complaints are brought in bad faith is unsubstantiated.

The Complainants gave information to support their allegations. Councillor Nickel gave vague and unresponsive answers to the allegations, although he said he had information showing how he obtained the Complainants' email addresses for his campaign. He could have easily answered questions about when and how he obtained their email addresses. When I again asked him to specifically answer the allegations in the Complaints, he refused. Accordingly, I accept the Complainants' information over Councillor Nickel's information and find on a balance of probabilities that he violated Park K, section 5 of the *Code*.

Further, when important issues were raised about the Elections and Campaigning section of the *Code*, it was fair to draw an adverse inference against Councillor Nickel when he refused to answer those questions, especially as this information was within his exclusive control to answer.

When making these findings, I determined whether the allegations are:

Substantiated – there is sufficient evidence on a balance of probabilities to make the finding;

Unsubstantiated - there is insufficient evidence on a balance of probabilities to make the finding; or

Unfounded – there is evidence on a balance of probabilities that the allegation is not true.

The following are my findings:

1. With respect to Complaints 2101, 2104, 2106 and 2107, Councillor Nickel violated Part K, section 5 of the *Council Code of Conduct Bylaw 18483* when he used electronic mail addresses used for his official duties for his personal election campaign activities and communications. These allegations are substantiated.

2. Councillor Nickel's allegation that these Complaints are brought in bad faith is unsubstantiated.

RECOMMENDATION FOR SANCTION

When considering the appropriate sanction available under the *Council Code of Conduct Bylaw 18483,* the following was considered:

1. The gravity of a Councillor potentially obtaining an unfair advantage from their duties as official duties as a Councillor during a Municipal election.

2. Some leeway is warranted as this is the first election cycle in which Council Members are governed by the *Code* and the Elections and Campaigning requirements in the *Code*.

3. The impugned conduct happened after the same concerns were brought to Councillor Nickel's attention in October 2020. He continued with his conduct, demonstrating an intentional disregard for the *Code* requirements.

4. Councillor Nickel failed to be responsive and co-operative with providing information in this investigation.

5. The need for the public to maintain confidence in the integrity of Council Members, given the information and advantages they receive by virtue of their office.

6. The need for deterrence for this type of conduct, particularly when it is intentional.

7. Councillor Nickel has previously been found in violation of the *Code of Conduct*. Prior violations of the *Code* are considered an aggravating factor when making recommendations for sanction.

I recommend that Council:

> Direct that Mayor Iveson on behalf of Council issue a letter of reprimand addressed to Councillor Mike Nickel with respect to the *Code of Conduct* violations found in this report.

SUMMARY OF COMPLAINTS

Complaint 2101

On December 13, 2017, Complainant 2101 emailed a constituent-related inquiry to Councillor Nickel at Councillor Nickel's City of Edmonton email address *mike.nickel@edmonton.ca*. Complainant 2101 then received an email from Councillor Nickel thanking the Complainant for their enquiry, and inviting them to reply yes if they wanted to be on the "mailing list for Ward 11's monthly newsletter", to which Complainant 2101 replied "Yes".

Complainant 2101 subsequently received Councillor Nickel's Council Newsletter. Complainant 2101 says Councillor Nickel then "crossed a line in sending out a call for volunteers and donations for his mayoral campaign" to Complainant 2101's email address "which was provided for the purpose of ward communications". Complainant 2101 says they have:

> "…never consented to being on a list of Mike Nickel's supporters. He happens to be my city councillor and I should be able to get ward updates without being signed up for campaign fundraising".

When Councillor Nickel responded to Complaint 2101 he indicated that anyone who signs up for his newsletter gets put on his "current list". Councillor Nickel also said Complainant 2101 "made a contact point" with his campaign.

I responded by asking Councillor Nickel what he means by "current list". Did this mean his campaign list, newsletter list, or something else? I also asked him what he means when he says Complainant 2101 "made a contact point" with his campaign. He did not respond to these questions.

Complaint 2104

Complainant 2104 says they have never signed up for Councillor Nickel's newsletter or anything else that would justify Councillor Nickel using Complainant 2104's personal email address for his mayoral campaign.

Complainant 2104 says they emailed Councillor Nickel via the 311 service and was directed to Councillor Nickel's City of Edmonton email account. Complainant 2104 then received an email

from Councillor Nickel regarding his mayoral campaign and requesting donations. Complainant 2104 says they have unsubscribed from getting Councillor Nickel's emails, but does not recall subscribing to "anything regarding Mike Nickel".

Complainant 2104's alleges Councillor Nickel:

> "…is using his constituent's contact information that was collected as a city councillor for his mayoral campaign….I do not want to see him get an unfair advantage because of insider information."

Complaint 2106

Complainant 2106 says:

> "I received unsolicited emails from Mike Nickel's campaign. I have never subscribed for emails from Mike Nickel's mayoral campaign. I have, however, emailed Mike Nickel regarding cross walk inquiries in the past. I believe Mike is utilizing my contact information from my correspondence with him in the capacity as city councillor to contact me as part of his campaign. I would like to know if my information was being accessed inappropriately."

Complaint 2107

Complainant 2107 says they have only ever contacted Councillor Nickel with respect to citizen concerns. Complainant 2107 says Councillor Nickel is:

> "…misusing an email address that was provided in communication with Mike Nickel's office with respect to a concern I had as a citizen of Edmonton. I have received a total of 3 emails with respect to his campaign for mayor...
>
> This is the third such email I have received in as many weeks. I have only ever communicated with Councillor Nickel with respect to concerns as a citizen and I am rather upset that he is using my email address which was sent to him in his capacity as a Councillor to further his run for mayor..."

JURISDICTION

Pursuant to section 9 of the *Integrity Commissioner Bylaw 18567,* I have a duty to receive and investigate *Code of Conduct* complaints. Schedule B of the *Code* says that complaints accepted by me will be investigated.

For me to accept jurisdiction, a complaint must be submitted in accordance with the requirements of the *Code*. Here, the Complaints complied with the requirements of the *Code* and made allegations, if proven true, could be a violation of Part K, section 5 of the *Code*. This

section deals with "Elections and Campaigning" and says email distribution lists that are used for official duties may not be used by Councillors for campaign activities and communications.

Accordingly, I accepted and took jurisdiction over the Complaints.

DISCLOSURE AND COUNCILLOR NICKEL'S RESPONSE

I provided Councillor Nickel with all relevant information received in the Complaints, along with the *Code* requirements that had been identified in the Complaints. [**See Appendix A – Complaint Details and Code Requirements**]. We also exchanged a number of emails and letters as I disclosed the Complaints and asked for responses to the Complaints [**See Appendix B – Chronology of Events**].

Councillor Nickel had already provided a response to Complaint 2101, but it was neither clear nor responsive. He said anyone who signs up for his Councillor newsletter goes on his "current list" but was unclear if this was the list he uses for official duties or his campaign. He appeared to be saying his campaign list, so I asked for clarification. He also said Complainant 2101 was "indeed someone who had made contact" with his campaign, but provided no details of when or how that contact was made. If he provided those details, I could have relayed that information back to the Complainant and likely resolved this Complaint.

In the interim, Complaints 2104, 2106 and 2107 were received by my office. On March 9, 2021, with respect to all of the Complaints, I asked Councillor Nickel a series of questions and for proof that he obtained the Complainants' email addresses for his campaign separately from his official duties. [Summarized in **Appendix B – Chronology of Events**].

Councillor Nickel replied to all of the Complaints generally saying

> "After speaking to my campaign team, these individuals have either:
>
> 1. Signed up to petitions on my website
> 2. Entered their email address on our homepage
> 3. Or contacted my prior election campaigns in 2013 or 2017
>
> As with the Code of Conduct complaints brought against me in 2020, I am concerned complainants may have been coached or solicited through political networks to create illegitimate action through your office.
>
> I have warned you previously regarding my concerns of the pollicization of your office.
>
> I will not further divulge the operations of my campaign team or the legitimate methods employed by my campaign team to contact Edmontonians.

> I believe that any further investigations into the operations of my campaign need to be conducted through the Municipal Government or the Elections Office, as I do not believe it is within your jurisdiction to oversee election campaigns."

I responded to Councillor Nickel by saying his responses to the Complaints are not responsive. A complete response to each Complaint was required. He was given more time and a further opportunity to be responsive.

I also advised Councillor Nickel that when responding to identify any information the disclosure of which could compromise his campaign, or the strategy of his campaign. I advised that it was not my duty to disclose this information to Council, or otherwise, if it could reasonably jeopardize his confidential campaign operations or strategies, but I needed to complete my investigation.

I advised Councillor Nickel that contrary to his submission, I do have jurisdiction over these Complaints. With respect, The City of Edmonton is the Municipal Government having jurisdiction over these matters. City Council has, by Bylaw, established the designated officer position of Integrity Commissioner and delegated the power to me to receive complaints and carry out investigations pursuant to the *Council Code of Conduct Bylaw*.

As well, contrary to Council Nickel's submission, I advised Councillor Nickel that the Election Commissioner appointed under the *Election Act* has jurisdiction over complaints or allegations in regard to campaign the finance (Part 5.1) or third-party advertising (Part 8) provisions in the *Local Authorities Election Act*, neither of which are covered by the allegations in these Complaints.

Councillor Nickel then responded by saying he would provide no further information and is relying on:

> "the absence of a disclosure obligation in the *Code of Conduct* and sections 11(c) and 13 of the *Canadian Charter of Rights and Freedoms* (rights against self-incrimination) and 11(d) (presumption of innocence until proven otherwise)".

I then asked the Complainants if they had, as suggested by Councillor Nickel:

- Signed up to petitions on Councillor Nickel's website,
- Entered their email address on his homepage, or
- Contacted his prior election campaigns in 2013 or 2017

The Complainants confirmed they had not done any of the above actions.

DISCUSSION AND ANALYSIS

All of these Complaints satisfied the requirements set out in the *Code*. The issues raised by Councillor Nickel regarding my jurisdiction have no merit. Contrary to Councillor Nickel's contention that I am investigating his election campaign operations, I am actually investigating whether his conduct adheres to the *Code*.

Through the passing of the *Code* by Council there is an implied obligation to co-operate with investigations, disclose relevant information and be responsive to the allegations when the Complaints are accepted for investigation by my office. Councillor Nickel's suggestion that he does not need to respond to questions and disclose information in an investigation given the absence of a disclosure obligation is without merit.

The constitutional arguments made by Councillor Nickel are irrelevant to the present proceedings, are not a proper reply to these Complaints, and are without merit. While the right against self-incrimination is a cornerstone of Canadian criminal law, these are not criminal proceedings. Councillor Nickel is not in jeopardy of any penal consequences related to this *Code of Conduct* investigation, nor is his life, liberty or security of the person at stake.

From the information provided by the Complainants, they did not sign up to get campaign communications from Councillor Nickel, but they do want to be able to interact with their Councillor regarding his official duties.

Part K section 5 of the *Code* prohibits Council Members from using electronic mail distribution lists that are used for official duties for campaign activities and communications.

With respect to the information Councillor Nickel provided in response to the Complaints, he purports to have reviewed his records and found that the Complainants one way or another made contact with his campaign.

While Councillor Nickel has the specifics of this information, he has chosen not to share it, even in confidence, with my office. That information is material to this investigation. As Councillor Nickel has made it clear that his office is the keeper of this information and this is his property, there is no one else who could provide this information other than Councillor Nickel. There are no investigative steps I could take to access this information. I find that the explanations given by Councillor Nickel for not providing the requested information are inadequate.

The Complainants gave information to support their allegations. Councillor Nickel gave vague and unresponsive answers to the allegations, although he said he had information showing how he obtained the Complainants' email addresses for his campaign. He could have easily answered questions about when and how he obtained their email addresses. When I again asked him to specifically answer the allegations in the Complaints, he refused. Accordingly, I accept the Complainants' information over Councillor Nickel's information and find on a balance of probabilities that he violated Park K, section 5 of the *Code*.

Further, when important issues were raised about the Elections and Campaigning section of the *Code*, it was fair to draw an adverse inference against Councillor Nickel when he refused to answer those questions, especially as this information was within his exclusive control to answer.

I find with respect to the Complaints that Councillor Nickel violated Part K, section 5 of the *Council Code of Conduct Bylaw 18483* when he used electronic mail addresses used for his official duties for his personal election campaign activities and communications. These allegations are substantiated.

Bad Faith Allegation

Councillor Nickel says in response to the Complaints that he is concerned about the politicization of my office and that the Complaints were "solicited through political networks to create illegitimate action" through my office. I invited Councillor Nickel to provide information relative to this allegation. Council Nickel submitted nothing to support his contention that that the Complaints are made in bad faith.

I find that Councillor Nickel's allegation that the Complaints are made in bad faith is unsubstantiated.

APPENDIX A

COMPLAINT DETAILS and CODE REQUIREMENTS

Complaint 2101 is as follows:

> "I am concerned that Mr. Nickel is using e-mail addresses gained through his official duties as Councillor to fundraise and seek volunteers for his mayoral campaign.
> I live in ward 11 so have occasionally reached out to Mr. Nickel regarding ward issues. Looking back at my e-mail correspondence with him, I see that in 2017 I emailed an inquiry and a few days after our exchange I received a Ward 11 monthly newsletter opt-in which I opted into to receive ward updates. Since then, I have received regular updates regarding engagement opportunities. (Mondays with Mike, ward coffees etc). Occasionally these e-mails have been partisan (e.g. how do feel about...west LRT impending disaster? Massive Waste??) but I think Mr. Nickel crossed a line in sending out a call for volunteers and donations for his mayoral campaign to my email address which was provided to him for the purpose of ward communications.
> I have never consented to being on a list of Mike Nickel's supporters. He happens to be my city councillor and I should be able to get ward updates without being signed up for campaign fundraising."

Complainant 2101 provided the email referred to in this Complaint, as follows:

"Ready?

Mike Nickel <info@mikenickel.emailnb.com>
Tue 2021-01-05 3:12 PM
To: [Complainant's email address redacted for this report]

We can continue on the trajectory we are on **OR** we can make bold change! It is no secret I have been deeply considering how I can be a part of that change.

Before I make any final decisions, I have a simple question for you.

I cannot do this without you.
Please consider joining my team.

- Mike Nickel

[links…]
Join our Team
Facebook, Twitter and Instagram,
Donate To Our Cause
Unsubscribe Here"

The following email exchange was provided by the Complainant:

"YES Re: Ward 11 Monthly Newsletter Opt-In

[Complainant's email address redacted for this report]
Wed 2017-12-13 12:00 PM
To: Mike Nickel <mike.nickel@edmonton.ca>

Yes

From: [Councillor Nickel's staff member's email address redacted for this report]> on behalf of Mike Nickel
<mike.nickel@edmonton.ca>
Sent: December 13, 2017 10:27 AM
To: Mike Nickel
Subject: Ward 11 Monthly Newsletter Opt-In

Good Morning,

Thank you for your previous inquires with the offices of Councillor Mike Nickel.

If you would like to be on the mailing list for Ward 11's **monthly newsletter** please respond to this email with a "yes", as per federal anti-spam legislation effective July 1st, 2014.

I would like to send my apologies, in advance if any of you have received this message prior.

Thank you,
Mike Nickel
Councillor, Ward 11
City of Edmonton
(780) 496-8142
mike.nickel@edmonton.ca

www.MikeNickel.ca"

Complaint 2104

"I received an email from Mike Nickel's "Nation builder" account info@mikenickel.emailnb.com requesting donations for his mayoral run. Since Mike Nickel was my city councillor I had emailed him via 311 and directly to his mike.nickel@edmonton.ca email account. I have never signed up for his newsletter or anything else that would justify him using my personal information for his mayoral campaign. My concern is that he is using his constituent's contact information that was collected as a city councillor for his mayoral campaign….I do not want to see him get an unfair advantage because of insider information.

I have since unsubscribed from Mike Nickel's email even though to the best of my knowledge I never subscribed to anything regarding Mike Nickel...

This was the email I had received from Mike Nickel regarding his mayoral campaign requesting donations. I have used this email with 311 complaints, Edmonton Insight Community, City of Edmonton eReg. My direct email communications with Mike Nickel as a city councillor over the last two years have been through my other email [Complainant's email address redacted for this report]. Prior to that we lived in Ben Henderson's riding and I had used this hotmail account. I would be very curious where Mike is obtaining his contact from for his campaign."

From: Mike Nickel <info@mikenickel.emailnb.com>
Sent: February 9, 2021 1:42 PM
To: [Complainant's email address redacted]
Subject: New Policy: Value for Everyone

Policy Announcement

"Working hard and paying taxes should get both the individual and their community ahead, but all too often it does not. With all the "great ideas" at City Hall, our communities and residents are getting further behind. This represents a real waste of opportunity, money, and most of all, time. It's that waste of time that really gets to me. Time is precious... It is the one resource we have that we cannot make more of. It's the most important non-renewable resource on our planet!"

READ FULL ARTICLE

I Value Your Help

Our movement has the momentum!

Can you help our campaign with a $5 donation?

Donate

"At least it's sunny in Edmonton"
- Jack Nicholson

Volunteers

We are waiting for the cold to stop before we start hitting the doors.

Thanks to the thousands of volunteers who signed up! We appreciate your patience. Once we are ready to go, each volunteer will be contacted.

If you still want to sign up to volunteer please do.

Volunteer

Unsubscribe Here

Complaint 2016

> "I received unsolicited emails from Mike Nickel's campaign. I have never subscribed for emails from Mike Nickel's mayoral campaign. I have, however, emailed Mike Nickel regarding cross walk inquiries in the past. I believe Mike is utilizing my contact information from my correspondence with him in the capacity as city councilor to contact me as part of his campaign. I would like to know if my information was being accessed inappropriately."

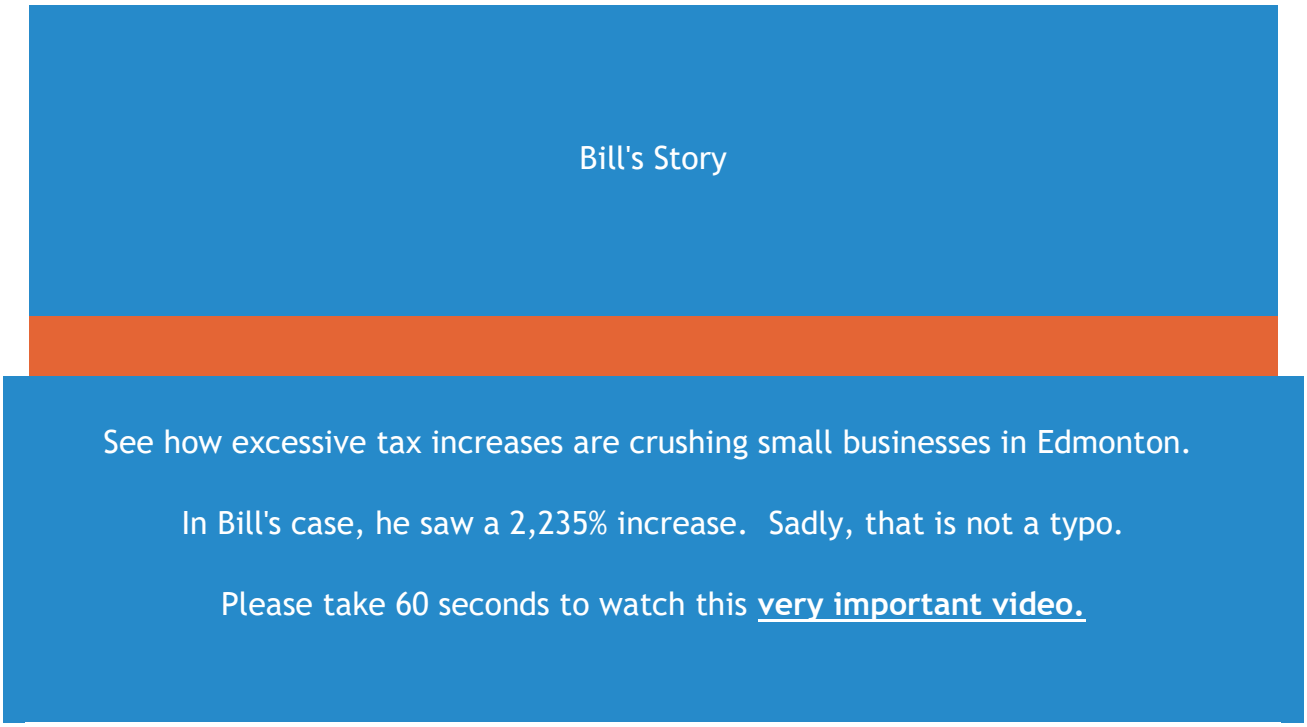
Complaint 2107

> "[Councillor Nickel is] misusing an email address that was provided in communication with Mike Nickel's office with respect to a concern I had as a citizen of Edmonton. I have received a total of 3 emails with respect to his campaign for mayor...
>
> This is the third such email I have received in as many weeks. I have only ever communicated with Councillor Nickel with respect to concerns as a citizen and I am

rather upset that he is using my email address which was sent to him in his capacity as a Councillor to further his run for mayor..."

Complainant 2107 attaches to their complaint an email dated Feb 24, 2021 from info@mikenickel.emailnb.com to [Complainant's email address redacted for this report] as follows:

From: Mike Nickel <info@mikenickel.emailnb.com>
Sent: February 24, 2021 4:14 PM
To: [Complainant's email address redacted for this report]
Subject: Bill's Story



CODE OF CONDUCT

The following requirements of the *Code* with respect to the Complaints:

Part F Confidential Information,

Section 2

If a Councillor received confidential information, they must use the information only for the purpose for which the information is intended and to fulfill the duties of their office, and must not seek to access confidential information for any other purpose.

Section 3

A Councillor must not use confidential information for personal or private interests, including interests of the Councillor's family, or in any way that may cause harm or detriment to any person.

Section 4

Councillors must respect the right of access to City records under the Freedom of Information and Protection of Privacy Act and the obligation to protect privacy, and will:

d) safeguard personal information.

Part K Elections and Campaigning

Section 4
Councillors must not use any of the City's intellectual property, communication facilities, or other facilities, for election or campaign-related activities.

Section 5
Councillors will maintain separate websites, social media, and electronic mail accounts for all campaign activities and communications. Website and electronic mail distribution lists that are used for official duties may not be used for campaign activities and communications.

Section 6
Councillors must not use any City communications facilities for their campaign, including the use of electronic email addresses and distribution lists.

Section 8
Councillors must not use their office to gain an unfair advantage over other candidates.

APPENDIX B

CHRONOLOGY of EVENTS

DATE	EVENT	DETAILS
Jan 15, 2021	IC forwards Complaint to Respondent this Complaint	IC forwards Complaint 2101 to Respondent, disclosing identity of Complainant and Complainant's email address, and says: "Given the information provided by [Complainant 2101], I am reviewing this matter. By January 26, 2021, please provide me with your response to this complaint. Include proof that [Complainant 2101's] email address was obtained separately for campaign purposes and was not as a result of the email exchange of December 13, 2017. Let me know if this timeline causes you any difficulty. Thank you."
Jan 18, 2021	Respondent emails IC Re C2101	"Our response remains the same as when you asked this question last fall. We understand this is a new complaint and you are doing your own due diligence…. [1] As already indicated on October 27, 2020 we have always maintained separate lists for my office and campaign. For our current mikenickel.ca newsletter list, we originally populated this list using 2013 and 2017 supporter and contact lists built from campaign activity. Please re-read my response to Park K, Section 5 & 6 above to clarify who personally pays for this service and who owns this proprietary information. Additionally, anyone who submits their email now on mikenickel.ca to sign up to our newsletter does go on our current list. After running a search in our original campaign excel sheets, this email listed **is indeed** someone who had made a contact point with our campaign."
Mar 9, 2021	IC sends Disclosure and Questions to Respondent	IC says in Disclosure: "Councillor Nickel, my focus in these investigations is the Council *Code of Conduct* and your Councillor and campaign email activity. I

[1] Councillor Nickel references his October 27, 2020 letter on a separate matter, the subject matter of which was using constituent email addresses for campaign purposes.

		am not investigating allegations related to anti-spam legislation, nor am I looking at web-site or social media activity." IC asks for a response to the following questions and requests for information by March 19, 2021: Re Complaint 2101: 1. As they relate to Council or campaign activities (without revealing anything confidential about your campaign), it would be helpful if you explained how each of the following accounts are used by you and for what purpose(s): Mike.nickel@edmonton.ca mikenickel.ca info@mikenickel.emailnb.com 2. You have responded that you populated your current campaign distribution list based on 2013 and 2017 supporter and contact lists for prior campaigns. You said that anyone who now emails your mikenickel.ca email wishing to sign up for your newsletter goes onto your "current list". What do you mean by "current list"? Your campaign list, Councillor newsletter list, or something else? 3. What do you mean when you say Complainant 2101 "made a contact point with our campaign"? Provide information (proof) that supports that Complainant 2101 contacted your campaign as this is in direct contradiction to what Complainant 2101 is alleging. 4. Provide actual screen shots of the excel spread sheets, copies of emails, etc. that show you obtained Complainant 2101's email address independently from email accounts used for official Councillor duties, including your newsletter. 5. Did you populate your campaign contact list with contact information obtained from constituents who subscribed to your Councillor newsletter? 6. Provide any other information you would like to provide in response to these complaints. Re Complaint 2014:

		1. As they relate to Council or campaign activities (without revealing anything confidential about your campaign), it would be helpful if you explained how each of the following accounts are used by you and for what purpose(s): Mike.nickel@edmonton.ca mikenickel.ca info@mikenickel.emailnb.com 2. Provide actual screen shots of the excel spread sheets, copies of emails, etc. that show you obtained Complainant 2104's email address independently from email accounts used for official Councillor duties, including your newsletter. 3. Explain and show proof of how you have Complainant 2104's hotmail account [email address redacted for this report]? 4. What is your answer to Complainant 2104's allegation that this account was only ever used for a 311 issue and prior Councillor-related emails sent to mikenickel.ca? 5. Did you populate your campaign contact list with contact information obtained from constituents who subscribed to your Councillor newsletter? 6. Provide any other information you would like to provide in response to these complaints. Re Complaint 2106: 1. As they relate to Council or campaign activities (without revealing anything confidential about your campaign), it would be helpful if you explained how each of the following accounts are used by you and for what purpose(s): Mike.nickel@edmonton.ca mikenickel.ca info@mikenickel.emailnb.com 2. Provide actual screen shots of the excel spread sheets, copies of emails, etc. that show you obtained Complainant 2106's email address independently from email accounts used for official Councillor duties, including your newsletter.

		3. Did you populate your campaign contact list with contact information obtained from constituents who subscribed to your Councillor newsletter? 4. Provide any other information you would like to provide in response to these complaints. Re Complaint 2107: 1. As they relate to Council or campaign activities (without revealing anything confidential about your campaign), it would be helpful if you explained how each of the following accounts are used by you and for what purpose(s): Mike.nickel@edmonton.ca mikenickel.ca info@mikenickel.emailnb.com 2. How do you have Complainant 2107's email account? 3. Provide actual screen shots of the excel spread sheets, copies of emails, etc. that show you obtained Complainant 2107's email address independently from email accounts used for official Councillor duties, including your newsletter. 4. Did you populate your campaign contact list with contact information obtained from constituents who subscribed to your newsletter? 5. Did you populate your campaign contact list with contact information obtained from constituents who subscribed to your Councillor newsletter? 6. Provide any other information you would like to provide in response to these complaints.
Mar 10, 2021	Extension requested	Respondent's office asks for extension to reply to April 26. IC responds asking if the extension was meant to be March 26.
Mar 11, 2021	Extension Request and IC reply	Respondent's office says the request is for an extension to April 26, 2021. IC replies saying the Code provides 10 days from the date Council Members receive the relevant information from the IC office (therefore a deadline of March 19, 2021). Unless there was information to justify an extension, the IC asked for a reply by March 31, 2021.
Mar 12, 2021	Respondent emails reply	Respondent replied as follows:

		"My council office does not run or manage my campaign. I need to request more information from the contractors who manage my website and provide communication services. It is clear from my initial response, regarding an extended timeline, that we can provide the information you requested well within a reasonable timeline to complete your review for your 90-day window."
Apr 1, 2021	Respondent's Office contacts IC	Respondent's office advises IC that response will come the following week.
Apr 7, 2021	IC follows-up for response	IC advises Respondent's Office that a response is needed as soon as possible. Respondent's office advises response will come on April 8, 2021.
Apr 9, 2021	Respondent Sends IC letter	"After speaking to my campaign team, these individuals have either: 1. Signed up to petitions on my website 2. Entered their email address on our homepage 3. Or contacted my prior election campaigns in 2013 or 2017 As with the Code of Conduct complaints brought against me in 2020, I am concerned complainants may have been coached or solicited through political networks to create illegitimate action through your office. I have warned you previously regarding my concerns of the pollicization of your office. I will not further divulge the operations of my campaign team or the legitimate methods employed by my campaign team to contact Edmontonians. I believe that any further investigations into the operations of my campaign need to be conducted through the Municipal Government or the Elections Office, as I do not believe it is within your jurisdiction to oversee election campaigns."
Apr 13, 2021	IC writes to Respondent	"Councillor Nickel, I have considered your April 9, 2021 response and advise as follows: **Jurisdiction**

		It is my duty to receive and investigate complaints pursuant to section 9 of the City of Edmonton *Integrity Commissioner Bylaw 18567*. I have set out in the *Disclosure and Questions* document the sections of the Council Code of Conduct that are covered by the complaints. They include sections from Part D (Adherence to Rules) and Part F (Confidential Information). You have not responded to any of the allegations relating to these sections. I also identified sections from Part K of the Code, which expressly addresses Elections and Campaigning. The complaints received clearly fall within these provisions, as specifically set out in the March 9, 2021 *Disclosure and Questions* document. You submit that I do not have jurisdiction to investigate your campaign activities. You state that you believe any further investigations need to be conducted through the Municipal Government or the Elections Office. With respect, the City of Edmonton is the Municipal Government having jurisdiction over these matters. City Council has, by bylaw, established the designated officer position of Integrity Commissioner and delegated the power to me to receive complaints and carry out investigations pursuant to the *Council Code of Conduct Bylaw*. The Election Commissioner appointed under the *Election Act* only has jurisdiction over complaints or allegations in regard to a violation of the campaign finance (Part 5.1) or third-party advertising (Part 8) provisions of the *Local Authorities Election Act*, neither of which are covered by the allegations in Complaints 2101, 2104, 2106 and 2107. Accordingly, this is the forum for receiving these complaints and I am accepting jurisdiction to investigate them. **Notice to be responsive** Your April 9, 2021 letter and prior response on January 18, 2021 are not responsive to each of the four complaints and the questions asked in my March 9, 2021 *Disclosure and Questions* document. For expediency and to facilitate your responses, I had sent the *Disclosure and Questions* with respect to each of the four

		complaints to you together, but a complete response is required to each complaint and to all of the questions. Your singular and broad response that the complainants "either" signed up to petitions on your website, entered their email addresses on your homepage, or contacted your prior election campaigns is not responsive to the complaints or the questions posed. **You have until <u>noon on Friday, April 16, 2021</u> to provide full and complete responses to the questions posed in the March 9, 2021 *Disclosure and Questions* document. If I do not have proper and full responses by then, I will report to Council my conclusion that you are not being responsive and cooperative with these investigations. I may also make findings, including adverse inferences, based on the information I have received as of <u>noon on Friday, April 16, 2021</u>.** **Allegations of Bad Faith** I currently have no evidence or information that these complaints are made in bad faith as suggested in your April 9, 2021 letter. I invite you to provide evidence that these complaints are made in bad faith. I have jurisdiction in Schedule B of the Council Code of Conduct to dismiss complaints that are "frivolous, vexatious or made in bad faith". It is up to you to provide evidence and information to support your contention that these complaints are made in bad faith. **You have until <u>noon on Friday, April 16, 2021</u> to provide any such information and evidence.** **Operations of Campaign** If there is information, the disclosure of which would compromise your campaign or the strategy of your campaign, please identify that information when you provide your responses. It is my duty to do an independent and impartial investigation. It is not necessarily my duty to disclose this information to Council, or otherwise, if it could reasonably jeopardize your confidential campaign operations or strategies. However, I must be satisfied that you are abiding by the *Council Code of Conduct* for activities falling within the *Council Code of Conduct*.

		I thank you in advance for your timely response to this communication."
Apr 16, 2021	Respondent writes to IC	Councillor Nickel responds by saying: • He will be providing no further information regarding this matter. • In coming to this decision, he is relying on "the absence of a disclosure obligation in the Code of Conduct and sections 11(c) and 13 of the Canadian Charter of Rights and Freedoms (rights against self-incrimination) and 11(d) (presumption of innocence until proven otherwise)".
Apr 19, 2021	IC writes to Complainants	IC writes to Complainants asking Complainants if they have ever done the following: - Signed up to a petition on Councillor Nickel's website - Entered their email address on Councillor Nickel's homepage - Contacted Councillor Nickel's prior election campaigns in 2013 and 2017
Apr 19 & 20 2021	Responses from Complainants	The Complainants confirm they had done none of the above three actions.