



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 ROBERT PASUTA, CANDIDATE, WARD 14

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 Robert Pasuta:

The Candidate may not have correctly calculated the inventory using replacement value as required by the *Municipal Elections Act, 1996* (MEA); however the candidate did make his best estimate and the variance would not have resulted in exceeding the spending limit.

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 MEA.

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.

There is nothing in the MEA that states that an inaugural dinner is not an allowable expense.

The failure to include the audit fee was appropriate given that the invoice for services was not received until after the filing date. The inclusion of the audit fee does not impact on the spending limit for the campaign.

With the Candidate excluding the above mentioned audit fee the refund of \$750 of the Candidate's or spouse's contribution exceeds the eligible refund, as per Section 79, (6) of the MEA.

The Committee is in agreement that there has been a contravention of the MEA, namely with respect to complying with Section 79 (6) of the MEA and as such it has the authority to order a compliance audit. 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 the ordering of compliance audit is discretionary.

The Committee, after considering all of the evidence and submissions, finds that a compliance audit is not warranted.

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