



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 TERRY WHITEHEAD, CANDIDATE, WARD 8

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 Terry Whitehead:

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.

It is the view of the Committee that the use of personal property for office equipment is not an expense subject to the spending limit.

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.

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.

Certain information on Table 2 (Monetary Contributions) was inadvertently omitted with respect to names and authorized representatives; however they were subsequently submitted to the satisfaction of the Committee.

The omission of information on Table 2 is a contravention of the MEA and as such, the Committee 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