



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 TOM JACKSON, CANDIDATE, WARD 6**

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 Tom Jackson:

The Applicant's statement that post campaign day expenses together with the expenses subject to the spending limit were excessive, is speculative and is not supported by substantive evidence.

There is nothing in the *Municipal Elections Act, 1996* (MEA) that prohibits holding fundraising events when, during the regular campaign period, there is not a deficit.

In relation to the printing of dinner tickets appearing to be expensed twice, the additional information provided indicates that it was expensed appropriately, under Schedule 2, Part 4 of the Financial Statement.

In relation to the costs of goods and services from third parties appearing to be valued too low, the Candidate submitted documents indicating that the services were provided at fair market value.

The program advertising revenue of \$5,525.00 and the cost of printing the program at \$1,105.00 have been appropriately accounted for.

The Committee was in receipt of the voting day party expenses and noted:

- The invoice for \$150 photography coverage was related to the fundraiser on October 14, 2014 and Election Day on October 27, 2014. This expense is subject to the spending limit, however, correctly including it as an expense

subject to the spending limit would not bring the total expenses to an amount greater than the Candidates spending limit; and

- The invoice from La Bakery for expenses related to the voting day party originally totalled \$205, of which the Candidate paid \$150. The full cost of \$205 reflects fair market value and should have been included in the financial statements. This expense is not subject to the spending limit.

In regards to the returned contributions, the MEA does not restrict a candidate (at their discretion) from returning any contributions.

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.

The Committee is in agreement that there has been a contravention of the MEA, namely with respect to the allocation of the voting day party expenses, 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