



Election Compliance Audit Committee

Minutes

Meeting #: 3
Date: Friday, December 8, 2023
Time: 11 am
Location: Electronic Participation

Present: Timothy Cullen (Chair), Catherine Bergeron (Vice-Chair), Nahie Bassett, Imad Eldahr, Michael McGoldrick

Committee Counsel James Plotkin (Gowling WLG) present:

1. Notices and meeting information for meeting participants and the public
Notices and meeting information are attached to the agenda and minutes, including: availability of simultaneous interpretation and accessibility accommodations; personal information disclaimer for correspondents and public speakers (only “designated persons” shall be permitted to make submissions to the Committee); notice regarding minutes; and hybrid participation details.
Accessible formats and communication supports are available, upon request.
Unredacted versions of applications for compliance audits, and any written submissions to Committee, are available for public inspection at the City of Ottawa Elections Office during regular business hours in accordance with the *Municipal Elections Act, 1996*.
At the outset of the meeting, the Chair read an opening statement outlining the procedures for and format of the Committee Meeting.
2. Declarations of Interest
No Declarations of Interest were filed.

3. Confirmation of Minutes

3.1 ECAC Minutes 2 – July 31, 2023

Carried

4. Office of the City Clerk

4.1 City Clerk’s report with respect to an apparent contravention of contribution limits under the Municipal Elections Act, 1996 for the 2022 Municipal Elections – Janet Foley

File No. ACS2023-OCC-GEN-0016 – City-wide

Report recommendation(s)

That the Election Compliance Audit Committee consider this report and decide whether to commence a legal proceeding against Contributor Janet Foley for apparent contravention of the contribution limits under the *Municipal Elections Act, 1996*.

The following designated persons, on behalf of the Contributor, were in attendance and made oral submissions to Committee:

- Candidate Clarke Kelly (written submission on file with the City Clerk)
- Lauren Sloan (Parker Prins Lebano)

The Committee recessed the meeting and deliberated in private on this matter pursuant to subsection 88.33(5.1) of the *Municipal Elections Act, 1996*. Upon reconvening, the Committee considered the following motion:

Motion No. ECAC 2023-03-01

Moved by M. McGoldrick

BE IT RESOLVED THAT the Committee issues the following decision and reasons:

Upon receiving the report titled “City Clerk’s report with respect to an apparent contravention of contribution limits under the *Municipal Elections Act, 1996* for the 2022 Municipal Elections – Janet Foley, and upon hearing the representations and/or reading the written submissions and documents submitted by the Auditor and the Candidate, this Committee hereby decides not to commence legal proceedings against Contributor Janet Foley for apparent

contravention of the contribution limits under the *Municipal Elections Act, 1996*.

The Committee heard evidence from Candidate Clarke Kelly and Ms. Lauren Sloan of Parker Prins Lebano, Mr. Kelly's auditor.

Mr. Kelly's evidence was that Ms. Foley in fact only contributed the allowable \$1,200 on September 6, 2022. Mr. Kelly explained that earlier, on August 19, 2022, he attended the Foley residence. At that time two contributions in the amount of \$1,200 each were provided, one by Ms. Foley and her husband, and one by Shawn Foley. Those cheques were from business accounts. Mr. Kelly explained that these contributions were not accepted. He advised that he ripped up the cheques received on August 19, 2022. He then marked on the related receipts that these contributions were not accepted. Mr. Kelly also took the Committee through his bank statements showing that only Ms. Foley's September 6, 2022 contribution was accepted and retained.

Ms. Sloan appeared in her capacity as Mr. Kelly's campaign finance auditor. She advised that she performed a 100% testing on Mr. Kelly's contribution records. She likewise confirmed that the cheques issued on August 19, 2022 were not deposited. Ms. Sloane advised that the auditor made a clerical error in not recording the fact that those contributions were not deposited.

The Committee accepts Mr. Kelly's and Ms. Sloan's evidence. The Committee is satisfied that the apparent over-contribution was indeed a clerical error. In light of the foregoing, the Committee will not commence legal proceedings against Ms. Foley.

Carried

- 4.2 City Clerk's report with respect to an apparent contravention of contribution limits under the Municipal Elections Act, 1996 for the 2022 Municipal Elections – Jennifer Kwong

File No. ACS2023-OCC-GEN-0017 – City-wide

Report recommendation(s)

That the Election Compliance Audit Committee consider this report and decide whether to commence a legal proceeding against

Contributor Jennifer Kwong for apparent contravention of the contribution limits under the *Municipal Elections Act, 1996*.

The Contributor, Jennifer Kwong, was in attendance, made oral submissions to Committee and answered questions. Her written submission is on file with the City Clerk.

Candidate Bina Shah was also in attendance.

The Committee recessed the meeting and deliberated in private on this matter pursuant to subsection 88.33(5.1) of the *Municipal Elections Act, 1996*. Upon reconvening, the Committee considered the following motion:

Motion No. ECAC 2023-03-02

Moved by I. Eldahr

BE IT RESOLVED THAT the Committee issues the following decision and reasons:

Upon receiving the report titled “City Clerk’s report with respect to an apparent contravention of contribution limits under the *Municipal Elections Act, 1996* for the 2022 Municipal Elections – Jennifer Kwong, and upon hearing the representations and/or reading the written submissions and documents submitted by the Contributor, this Committee hereby decides not to commence legal proceedings against Contributor Jennifer Kwong for apparent contravention of the contribution limits under the *Municipal Elections Act, 1996*.

The Committee has considered the evidence tendered by Ms. Kwong and Mr. Harry Mortimer, CPA, the candidate’s campaign auditor. Given the small amount of the apparent contravention, and the likely legal and administrative costs of commencing legal proceedings, the Committee exercises its discretion not to commence legal proceedings.

Carried

4.3 Appointment of external licensed auditor to conduct an election compliance audit of Candidate Doug Thompson of Ward 20 Osgoode from the 2022 Municipal Elections

File No. ACS2023-OCC-GEN-0014 – City-wide

Report recommendation(s)

That the Election Compliance Audit Committee:

1. **Approve the appointment of an external licensed auditor, to conduct an election compliance audit of the campaign finances of Candidate Doug Thompson of Ward 20 Osgoode from the 2022 Municipal Elections, as outlined in this report;**
2. **Delegate the authority to finalize the contract and audit plan to the City Clerk or his designate, in consultation with the Committee's legal counsel, as outlined in this report.**

The Applicant, Edward Phillips, was in attendance.

Stéphane Émard-Chabot (Sicotte Guilbault), on behalf of the Respondent, was in attendance and made oral submissions to Committee.

The Committee recessed the meeting and deliberated in private on this matter pursuant to subsection 88.33(5.1) of the *Municipal Elections Act, 1996*. Upon reconvening, the Committee considered the following motion:

Motion No. ECAC 2023-03-03

Moved by M. McGoldrick

That the Election Compliance Audit Committee:

1. **Approve the appointment of Raymond Chabot Grant Thornton, an external licensed auditor, to conduct an election compliance audit of the campaign finances of Candidate Doug Thompson of Ward 20 Osgoode from the 2022 Municipal Elections, as outlined in this report;**
2. **Delegate the authority to finalize the contract and audit plan to the City Clerk or his designate, in consultation with the Committee's legal counsel, as outlined in this report.**

Carried as amended

- 4.4 Appointment of external licensed auditor to conduct an election compliance audit of Third Party Advertiser Horizon Ottawa from the 2022 Municipal Elections

File No. ACS2023-OCC-GEN-0015 – City-wide

Report recommendation(s)

That the Election Compliance Audit Committee:

1. **Approve the appointment of an external licensed auditor to conduct an election compliance audit of the campaign finances of Third Party Advertiser Horizon Ottawa from the 2022 Municipal Elections, as outlined in this report;**
2. **Delegate the authority to finalize the contract and audit plan to the City Clerk or his designate, in consultation with the Committee's legal counsel, as outlined in this report.**

Member McGoldrick did not participate in deliberations nor vote on this matter.

The Applicant, Edward Phillips, was in attendance.

There were no designated persons in attendance on behalf of the Respondent.

The Committee recessed the meeting and deliberated in private on this matter pursuant to subsection 88.33(5.1) of the *Municipal Elections Act, 1996*. Upon reconvening, the Committee considered the following motion:

Motion No. ECAC 2023-03-04

Moved by C. Bergeron

That the Election Compliance Audit Committee:

1. **Approve the appointment of BDO Canada LLP, an external licensed auditor to conduct an election compliance audit of the campaign finances of Third Party Advertiser Horizon Ottawa from the 2022 Municipal Elections, as outlined in this report;**
2. **Delegate the authority to finalize the contract and audit plan to the City Clerk or his designate, in consultation with the Committee's legal counsel, as outlined in this report.**

Carried as amended

4.5 Report from the City Clerk with respect to the review of contributions to candidates and registered third party advertiser's supplementary financial statements filed under the Municipal Elections Act, 1996 for the 2022 Municipal Elections

File No. ACS2023-OCC-GEN-0018 – City-wide

Report recommendation(s)

That the Election Compliance Audit Committee receive this report for information.

Received

5. Inquiries

There were no Inquiries.

6. Other Business

There was no other business.

7. Adjournment

Next Meeting: To be scheduled as required within the timelines prescribed by the *Municipal Elections Act, 1996*, should compliance audit application(s) or auditor report(s) be received.

The meeting adjourned at 12:59 pm.

Committee Coordinator

Chair