

Notice of Decision
The Corporation of the City of Oshawa
Joint Compliance Audit Committee
established under Section 88.37 of the *Municipal Elections Act, 1996*

IN THE MATTER OF the Clerk's Report on contributions to candidates under section 88.34(2) of the Municipal Elections Act, 1996;

AND IN THE MATTER OF the City of Oshawa's 2022 Municipal and School Board Election Joint Compliance Audit Committee Administrative Practices and Procedures in accordance with section 88.37(6) of the Municipal Elections Act, 1996;

Contributor: Quito Maggi
Affected Candidate: Jonathan Giancroce
Report No. JCAC-23-02
Meeting Date: Wednesday, May 24, 2023 at 6:00 p.m.
Meeting Location: Committee Room, City Hall
50 Centre Street South
Oshawa, Ontario L1H 3Z7

DECISION

Purpose of Meeting

The purpose of the meeting was to consider a report from the City Clerk on an apparent contravention by Quito Maggi (the Contributor) of the contribution limits to candidates for the 2022 Municipal Election in the City of Oshawa. The Joint Compliance Audit Committee (the Committee) was also to decide whether to commence a legal proceeding against the Contributor.

This meeting was held in accordance with the provisions of the City of Oshawa's 2022 Municipal and School Board Election Joint Compliance Audit Committee Administrative Practices and Procedures (the Procedures).

Decision

After consideration of:

- (a) the report from the City Clerk (the Report) under subsection 88.34(2) of the *Municipal Elections Act, 1996* (the Act);
- (b) the correspondence received from the Contributor including a copy of a cheque refunding to the Contributor the amount of \$50.00;

- (c) the correspondence from the Candidate Jonathan Giancroce (the Candidate) which included correspondence from his auditor William Molson as well as a copy of the cheque issued to the Contributor refunding the over contribution of \$50.00; and
- (d) subsection 88.22(1)(o) of the Act, which permits the return to a Contributor of a contribution of money received in contravention of the Act as soon as possible after the Candidate becomes aware of the contribution,

it is the decision of the Committee that the over contribution made by the Contributor has been rectified pursuant to the provisions of the Act. As the breach of the Act has been fully resolved, it is the further decision of the Committee that there are no grounds to commence proceedings against the Contributor or to appoint an independent prosecutor.

Reasons

The reasons for the decision are as follows:

1. This case came before the Committee for decision under subsection 88.34(2) of the Act in the following circumstances:
 - (a) On March 28, 2023 the Candidate filed a Financial Statement and Auditor's Report under the prescribed form under the Act;
 - (b) The Candidate was seeking election for the position of City Councillor in Ward 2 of the City of Oshawa; and
 - (c) Pursuant to the Clerk's obligations set out in subsection 88.34 of the Act, a report was prepared and notice was given to the Contributor and to the Candidate and forwarded to the Committee setting out that there appeared to be a contravention by the Contributor of the contribution limits set out in the Act.
2. The Contributor did not appear before the Committee on May 24, 2023 but provided written submission via e-mail on May 16, 2023. In that correspondence the Contributor outlined that he had received a cheque refunding to him the \$50.00 over contribution and he attached a copy of the cheque he received for \$50.00 from the Candidate. The Clerk served notice of the Report and published notice of the report in accordance with the Procedures.
3. The Candidate appeared before the Committee on May 24, 2023 and provided a written submission via e-mail on May 16, 2023 requesting that a letter from his campaign auditor and a copy of a cheque issued to the Contributor for the over contribution of \$50.00 be put before the Committee. The letter from the auditor William Molson to the Candidate set out that he made an error in not identifying the \$50.00 over contribution from the Contributor and indicating in these circumstances his advice would be to correct the over contribution by refunding the amount of the contribution promptly upon becoming aware of the over contribution. The Candidate orally confirmed the information provided by e-mail before the Committee on May 24, 2023 and that a refund of \$50.00 was provided to the Contributor.
4. In making its decision the Committee noted the over contribution by the Contributor was refunded promptly by the Candidate upon becoming aware of the over contribution in accordance with subsection 88.22(1)(o) of the Act which provides that a Candidate shall ensure that "a contribution of money made or received in contravention of this Act or a by-law passed under this Act is returned to the contributor as soon as possible after the candidate becomes aware of the contravention". As the over contribution was refunded to the Contributor, at this time there is no contravention of the contribution limits set out in the Act.

5. As the information before the Committee demonstrated that the contravention under the Act was rectified in accordance with the provisions set out in the Act, the Committee finds that there are no grounds to commence proceedings as against the Contributor or to appoint an independent prosecutor.

Dated this 30 day of May, 2023

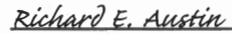


Joe Brown, Chair



K.Y. Chapman (May 30, 2023 18:16 EDT)

Kalli Chapman, Member



Richard E. Austin (May 30, 2023 21:56 EDT)

Richard E. Austin, Member