

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: Rosaldo Russo
Affected Candidate: Joe Ingino
Report No. JCAC-23-03
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 Rosaldo Russo (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 the report from the City Clerk under subsection 88.34(2) of the *Municipal Elections Act, 1996* (the Act), and upon reviewing a letter dated May 22, 2023 from the Candidate, Joe Ingino, (the Candidate) with an unsigned copy of a revised Financial Statement dated May 22, 2023 (the Unsigned Financial Statement) and upon hearing the oral submissions of the Candidate Joe Ingino on behalf of himself as well as his representation that he was also representing the Contributor, it is the decision of the Committee that there is a reasonable belief that there has been an over contribution made by the Contributor contrary to the Act. It is the

further decision of the Committee that the public interest in maintaining the integrity of the campaign finance provisions of the Act will be served by commencing proceedings against the Contributor and 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 February 6, 2022 the Candidate filed a Financial Statement and Declaration (the Financial Statement) in the prescribed form under the Act;
 - (b) The Candidate was seeking election for the position of Mayor of the City of Oshawa;
 - (c) Pursuant to the Clerk's obligations set out in subsection 88.34 of the Act, a report (the 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 and did not provide any written submission. 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 dated May 22, 2023 stating that there was a clerical error on his signed Financial Statement. The written submission included the Unsigned Financial Statement, The Candidate also indicated to the Committee that he was there to represent both himself and the Contributor Rosaldo Russo. The Candidate also advised that Rosaldo Russo would not be attending before the Committee due to health issues.
4. In his oral submissions to the Committee, the Candidate indicated that he had in fact signed the Financial Statement filed with the Clerk on January 23, 2023 and completed the declaration indicating that to the best of his knowledge and belief that the Financial Statement and supporting schedules were true and correct. When asked about this the Candidate was dismissive blaming his staff for clerical errors. The Financial Statement listed only two (2) individual contributors of more than \$100 in money and three (3) contributors of goods and services. It did not appear to be a lengthy or complex document to review before completing and signing the declaration.
5. The Financial Statement indicated that no deficit or surplus was incurred. The deadline for filing the Financial Statement in such a case is set out in subsection 88.30(1)1 of the Act. No application to extend the time to file was made by the Candidate therefore the Unsigned Financial Statement could not be accepted by the Clerk. In any event, this form is incomplete as it is not signed and the required declaration was not completed by the Candidate.
6. The Candidate indicated that the Contributor only provided a \$1,000.00 contribution to his campaign, not the \$1356.00 listed in the Financial Statement. He stated the Contributor used his credit card on behalf of the Candidate to purchase signs for the Candidate in the sum of \$1,356.00 on September 2, 2022. The Candidate also indicated that he provided the Contributor with \$356.00 cash at the time of the credit card transaction to purchase the signs utilizing monies

he had received from another contributor Michael Palermo on April 2, 2022 as the sign company only accepted payment by credit card.

7. The Candidate further advised that the same clerical error was made on his signed Financial Statement filed with the City Clerk indicating there was a contribution of \$1,356.00 from Contributor Donald Jessome. He also indicated that this Contributor used his credit card to purchase election signs for him on September 15, 2022 in the amount of \$1,356.00 but that he provided Donald Jessome with \$356.00 cash at the time from monies he had received from another contributor James Torok on June 20, 2022.

8. The Candidate indicated that he did not have any receipts to show that he had made the payments to either Rosaldo Russo or Donald Jessome for \$356.00 each as outlined in his letter, Unsigned Financial Statement or his oral submissions to the Committee. The Act provides at subsection 88.22(1) the duties of candidates with respect to campaign finances which include ensuring that all contributions of money are deposited into campaign accounts, all payments for expenses are made from campaign accounts and that receipts are issued for every contribution and obtained for every expense. The Candidate's oral submissions indicate a violation of the provisions of subsection 88.22(1) of the Act.

9. Although the Candidate indicated that he was appearing on behalf of himself and the Contributor, he provided no written documentation or letter from the Contributor confirming that he had been paid back \$356.00 for his assistance purchasing election signs as stated by the Candidate.

10. The Financial Statement filed with the Clerk February 6, 2022 did not list any contributions from a James Torok or Michael Palermo although the Unsigned Financial Statement dated May 22, 2023 listed a \$356.00 contribution from James Torok on June 20, 2022 as well as a \$356.00 contribution from Michael Palermo on April 2, 2022.

11. Both Financial Statements presented by the Candidate indicate that the Candidate did not file his nomination papers for the office of Mayor until June 4, 2022. If this is correct, the Unsigned Financial Statement provided by the Candidate indicating that he received a contribution from Michael Palermo on April 2, 2022 would pre-date his campaign period and indicates a violation of subsection 88.8(2) of the Act as a contribution cannot be made or accepted outside of the candidate's election campaign period.

12. While the Committee has serious concerns about the submissions of the Candidate outlining his actions with respect to his campaign finances, the Committee is mindful that the question before it relates solely to the question of whether there was an over contribution by the Contributor.

13. In making its decision the Committee noted that the Financial Statement clearly showed an over contribution by the Contributor. The Committee received no supporting documentation to confirm the Candidate's Unsigned Financial Statement with respect to the repayment of \$356.00 to the Contributor. The information provided to the Committee at its meeting on May 24, 2023 to refute the over contribution by the Contributor would require The Committee to accept that the Candidate was careless in completing very limited number of entries on the Financial Statement and Declaration; failed to disclose two contributors on the Financial Statement; failed to keep the records and receipts required by the Act; and accepted a donation outside of his campaign period; without any supporting information verifying the payment of \$356.00 in cash to him.

14. Based on the foregoing, it is the decision of the Committee that there are reasonable grounds to believe that the Contributor made a contribution in excess of the limits set out in the Act and therefore committed a breach of the Act.

15. In its role the Committee is aware that the Campaign Finance provisions of the Act are an important part of ensuring the protection of the public and the maintenance of public trust in municipal elections and municipal election campaign finances.

16. The concerning evidence provided at the meeting has also satisfied the Committee that there are reasonable grounds to believe that there has been a breach of the Act, and that it is also in the public interest to commence proceedings against the Contributor and to appoint an independent prosecutor.

17. In coming to this decision, the Committee recognizes that the independent prosecutor has a separate, independent role that requires them to determine if they believe they have a reasonable prospect of conviction and whether it is in the public interest to continue with a prosecution under the Act as against Rosaldo Russo. The Committee's decision shall not be construed to restrain the independent prosecutor in any way from their role.

Dated this 30 day of May, 2023

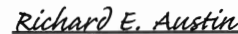


Joe Brown, Chair



K.Y.Chapman (May 30, 2023 18:17 EDT)

Kalli Chapman, Member



Richard E. Austin (May 30, 2023 22:42 EDT)

Richard E. Austin, Member