

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 an application for compliance audit under section 88.33(1) 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;

Candidate: Joe Ingino
Applicant: Derek Giberson
Application No. JCAC-23-09
Meeting Date: Thursday, July 13, 2023 at 9:30 a.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 an application from Derek Giberson for a compliance audit of the campaign finances of Joe Ingino, a candidate for Mayor in the City of Oshawa's 2022 Municipal Election. In addition to Mr. Giberson, the application for a compliance audit was signed by Roger Bouma, Mary Fowler, Domenic Albis, Teresa Goff and Darlene Forbes.

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").

Delegations

Both the Applicant and the Candidate appeared and made delegations. The Applicant invited Roger Bouma to appear as a Witness pursuant to Section 11.9 of the Procedures. Mr. Giberson and Mr. Bouma advised the Clerk of Mr. Bouma's intention to appear as a Witness via email on July 12, 2023. Mr. Bouma appeared at the meeting and made a delegation. Mr. Bouma identified himself as the campaign manager for 2022 candidate for Mayor, Dan Carter.

Decision

After reviewing the documentation submitted by both the Applicant and Candidate and also hearing oral submissions from both the Applicant, the Candidate and Roger Bouma, it is the decision of this Compliance Audit Committee that the matter of JCAC 23-09 (City of Oshawa) proceed to audit. The basis of this decision is a review of the materials filed by the parties and the submissions of the applicant and respondent. Specifically: a number of financial questions remain regarding the respondent's advertising; a lack of receipts were provided for the advertising; and, questions arise regarding the fair market value of that advertising and the advertising rates provided to various candidates to advertise in the Central Newspaper.

Reasons

The reasons for the decision are as follows:

The Applicant alleges, *inter alia*, that the Candidate spent in excess of the amount listed in his Financial Statement dated February 6, 2023, specifically that his Financial Statement does not accurately reflect the cost of his campaign advertising.

Both the Applicant and Mr. Bouma stated that, based on the advertising rate card provided to them by the in the "Oshawa Central Newspaper"/Oshawa/Durham Central" (the "Central"), Giberson as a Candidate and Bouma as campaign manager for another candidate, the campaign advertising cost identified in the Candidate's Financial Statement is significantly under-reported. A copy of the rate card provided to the Applicant and Mr. Bouma was included in the document package provided to the Clerk by the Applicant prior to the meeting and reviewed by the Committee.

In his delegation, the Candidate, who is also the editor and publisher of the Central, stated that there was more than one (1) rate card for advertising by candidates in the Central during the 2022 election period. The Candidate also stated that a rate card different from the rate card provided to the Applicant and Mr. Bouma was available to some but not all 2022 candidates. During questioning by the Committee, the Applicant clarified that this different rate card was available to those candidates who contacted him by telephone or email. This different rate card included reduced rates for campaign advertising. This different rate card was included in the document package provided to the Clerk by the Candidate prior to the meeting and reviewed by the Committee.

The Candidate confirmed during his delegation that the campaign advertising expenses listed in his Financial Statement reflect the reduced campaign advertising rate as listed on the rate card included in his document package rather than the campaign advertising rate listed on the rate card provided by the Applicant. When questioned by the Committee, the Candidate advised that he had a receipt or receipts for his campaign advertising costs but had not included them in his document package and reviewed by the Committee and did not bring copies of any receipts with him to the meeting.

The Committee plays a "gatekeeper" function, namely its only role at this meeting is to determine whether it is appropriate for an audit of the Candidate's campaign finances to occur. The Committee does not determine at this meeting whether the Candidate has, in fact, contravened the *Municipal Elections Act, 1996*.

To that end, after reading the written submissions, along with the document packages, of both the Applicant and the Candidate and hearing their respective delegations as well as Mr. Bouma's delegation, the Committee continues to have questions about, *inter alia*, the amount incurred by the Candidate for campaign advertising in the Central, the benefit, if any, obtained by the Candidate accessing a different, reduced campaign advertising cost not available to all candidates, and the impact, if any, of the Candidate's role as the editor/publisher of the Central on the Candidate's campaign advertising costs.

Accordingly, the Committee has determined it is appropriate for a compliance audit of the Candidate's campaign finances to occur.

Date this 20th day of July, 2023

Kelly Gravelle

Kelly Gravelle (Jul 20, 2023 18:33 EDT)

Kelly Gravelle, Chair

Wm. J. Paul Jones

Wm. J. Paul Jones (Jul 20, 2023 18:58 EDT)

Paul Jones, Member

SP

Sachin Persaud (Jul 21, 2023 12:32 EDT)

Sachin Persaud, Member