



London
CANADA

300 Dufferin Avenue
P.O. Box 5035
London, ON
N6A 4L9

NOTICE OF DECISION
THE CORPORATION OF THE CITY OF LONDON
COMPLIANCE AUDIT COMMITTEE
established under Section 88.37 of the *Municipal Elections Act, 1996*

IN THE MATTER OF the Municipal Election Compliance Audit Report submitted under section 88.33(12) of the Municipal Elections Act, 1996 in response to the Compliance Audit Committee's decision issued under section 88.33(8) with respect to an application regarding candidate Paul Paolatto, submitted under section 88.33(1) of the Municipal Elections Act, 1996;

AND IN THE MATTER OF the City of London's Rules of Procedure for the 2018 Municipal Election Compliance Audit Committee in accordance with section 88.37(6) of the Municipal Elections Act, 1996;

Candidate: Paul Paolatto
Applicant Lincoln John McCardle
File No. CAC-2019-L01-003
Meeting Date: Friday, October 23, 2020
Meeting Location: Committee Room #5 – 2nd Floor
City Hall
300 Dufferin Avenue
London, Ontario N6B 1Z2

DECISION

PURPOSE OF MEETING

The purpose of the meeting was to consider the Municipal Election Compliance Audit Report of William Molson, CPA, CA (the "Auditor's Report") dated September 30, 2020 in response to an application submitted by Lincoln John McCardle (the "Applicant") pertaining to the campaign finances of Paul Paolatto (the "Candidate") and to determine whether to commence a legal proceeding for an apparent contravention(s) in relation to the City of London 2018 Municipal Election.

The meeting was held in accordance with the provisions of the City of London's Rules of Procedure for the 2018 Municipal Election Compliance Audit Committee.

DECISION

After considering the Auditor's Report under subsection 88.33(17) of the *Municipal Elections Act, 1996* (the "Act"), hearing the verbal overview of the findings from William Molson and the written submission from the Applicant and considering appropriate provisions of the Act, it is the decision of the Compliance Audit Committee (the "Committee") that the apparent contraventions outlined in the Auditor's Report are *de minimis* in nature and that neither the public interest nor any municipal purpose would be served by commencing legal proceedings against the Candidate for the identified apparent contraventions. The Committee therefore does not authorize the commencement of such proceedings. Committee hereby decides not to commence legal proceedings against the Candidate for an apparent contravention of the provisions of the *Municipal Elections Act, 1996* relating to election campaign finances.

REASONS

The reasons for the decision are as follows:

1. In making the decision, the Committee acts primarily as a gatekeeper in determining whether legal proceedings should be undertaken and to see is that municipal finances and other resources are deployed in the public interest or for some useful municipal purpose. It is not the role of the Committee to determine whether the apparent contravention(s) is in fact a contravention(s) of the Act. Some examples of public interest or useful municipal purpose given consideration by the Committee, include the following:
 - Does the apparent contravention involve a legal interpretation of the Act which should be settled by a court so all candidates will have a common understanding of the electoral ground rules during the next election cycle?
 - Was the apparent contravention deliberate and/or undertaken for personal benefit?
 - Was the apparent contravention a *de minimis* matter or was it something which, if determined to be a contravention, should be censured?
2. The Auditor's Report identified errors in the treatment and/or reporting of three or four items in the Financial Statement. In all cases, the incorrect reporting was off-setting and had no impact on the deficit reported in the Financial Statement filed by the Candidate. The Auditor's Report reported that these errors constituted an apparent contravention of the Act. Correcting the errors had the cumulative effect of increasing the contributions to \$95,183.34 and increasing campaign expenses that are subject to the campaign limit to \$93,776.04. With the adjustments arising from correcting these errors, the following apparent contraventions were identified:
 - the Candidate contributed to their own campaign \$693.00 more than the \$25,000 they and their spouse were permitted to contribute;
 - the Candidate did not issue themselves a receipt for the contributions they made to their own campaign as the Act requires; and
 - because the Act requires the filing of a correct Financial Statement, it is an apparent contravention of the Act to have filed a Financial Statement that included these errors.
3. The Auditor's Report noted that in some instances, underlying receipts for smaller miscellaneous expenses were not retained. While the details of the expenses were recorded and the Auditor saw nothing to suggest the recorded information was not correct, the Act requires receipts to be retained. Failure to do so is an apparent contravention of the Act.
4. After considering the Auditor's Report under subsection 88.33(17) of the Act, hearing the verbal overview of the findings from the Auditor, the written submission from the Applicant and considering appropriate provisions of the Act, it is the decision of the Committee that the apparent contraventions outlined in the Auditor's Report are *de minimis* in nature and that neither the public interest nor any municipal purpose would be served by commencing legal proceedings against the Candidate for the identified apparent contraventions. The Committee therefore does not authorize the commencement of such proceedings.

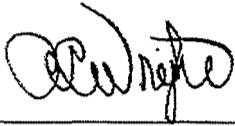
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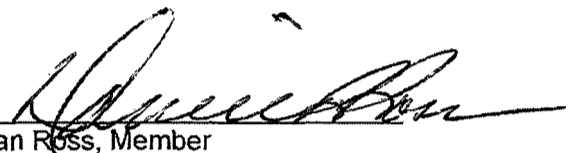
The Committee is satisfied that it is within its discretion and consistent with its traditional gatekeeper role to determine whether the public interest would be served by the commencement of legal proceedings against the Candidate for an apparent contravention(s) of the Act. For the reasons herein set out, it is the Committee's decision that it is not in the public interest to commence a legal proceeding against the Candidate for the apparent contraventions of the Act relating to election campaign finances.

ISSUED by The Corporation of the City of London Compliance Audit Committee at London, Ontario, on October 29, 2020.


Compliance Audit Committee



Andrew Wright, Chair



Dan Ross, Member


Christene Scrimgeour, Member