

April 2, 2012

Ms. Donna Winborn
Election Coordinator
City Clerk's Office
City of Vaughan
2141 Major Mackenzie Drive
Vaughan, ON
L6A 1T1

Dear Ms. Winborn:

ADDENDUM TO COMPLIANCE AUDIT REPORT FOR THE CITY OF VAUGHAN
RE: LOCAL AND REGIONAL COUNCILLOR MICHAEL DIBIASE

1. This letter is an Addendum to our compliance audit report concerning the campaign finances of Local and Regional Councillor Michael DiBiase dated March 15, 2012. This Addendum addresses clarifications and modifications to our Report and issues that were raised by the Applicant, Ms. Carrie Liddy (the "**Applicant**" or "**Ms. Liddy**") subsequent to the issuance of our report on March 26, 2012.

Comprehensive Audit

2. Subsequent to the issuance of our report, The Applicant has drawn a number of issues to our attention that she had previously raised, culminating in an excerpt taken from the online National Post on March 28, 2012 quoting Ms. Liddy as follows: "*The auditor did not do a comprehensive audit.*"
3. The purpose of this Addendum is to provide the Compliance Audit Committee ("**CAC**") with additional information that will hopefully assist in ensuring a better understanding of our detailed approach. We did not ignore, omit or fail to address information as asserted by the Applicant. Rather, our report focused on what was determined as a result of our compliance audit and opinions were expressed in Section 2 of the report on matters where FFP felt there were apparent contraventions.

Procedures Performed on Corporate Contributions

4. Each procedure set out in Paragraph 1.10 and 1.11 of our report can in turn be broken down into several points. One example is with respect to how we dealt with the verification of corporate contributions. Procedures #5 and #7 indicate that we examined accounting and financial documentation and performed a number of corporate searches. In actual fact we



- a) Identified all corporate contributors that gave \$750 contributions or had common addresses or in particular were numbered companies;
 - b) Performed corporate searches on these companies;
 - c) Requested written confirmation from these corporations with common addresses or directorship to confirm whether they were/were not associated **and** obtained copies of certain extracts from their corporate T2 returns in which they have provided signed representations to Canada Revenue Agency (“CRA”);
 - d) Verified these and all campaign contributions to the campaign banking records and copies of cancelled cheques; and
 - e) Reconciled these and all campaign contributions over \$10 to the details on receipts to contributors and over \$100 to the details in the Financial Statement.
5. We have examined all contributions over \$750 for possible corporate association, including the ones that were alleged by the Applicant.
6. The Applicant had previously raised an issue with contributions from the Milani’s companies – 611428 Ontario Limited and 1714486 Ontario Limited. During the course of our compliance audit, we requested and received excerpts from the respective corporate tax returns for these companies from the contributors, including Schedule 9 that disclosed that these corporations are “*related but not associated.*” As a result, there was no apparent contravention of the Act.
7. Our Overall Findings as set out in paragraphs 2.6 to 2.9 represent the exceptions noted and the resultant apparent contraventions; paragraphs 3.1 to 3.9 provide further detail in support of these findings; and paragraph 2.5 provides an explanation of an effective control measure introduced this year to the DiBiase campaign.

Issues raised by the Applicant

8. We stand by the statement made in paragraph 1.5, as follows:

“The Applicant also identified a number of issues in her second supplementary affidavit and throughout the course of our compliance audit. All have been considered, some have been reported on and others are commented on further in paragraphs 1.12 to 1.14.”

9. In particular, paragraphs 1.12 and 1.13 address a number of serious allegations made by Ms. Liddy that are, in our opinion, beyond the scope of a compliance audit of the Candidate’s 2010 campaign finances. A compliance audit is limited to addressing apparent contraventions of the Act, and thus in our opinion does not extend to investigating allegations ancillary to the Candidate’s 2010 campaign finances. We



haven't ignored these allegations, rather have brought them to the attention of the CAC for possible future consideration or referral to the City of Vaughan's internal audit department.

10. The DiBiase campaign finances were examined in their entirety. There was no use of random sampling or other judgment selection techniques. As such, to the best of my knowledge, any allegations raised by Ms. Liddy with respect to the 2010 DiBiase campaign finances have received consideration. Those that merited further discussion were commented on in Section 3 of our report and the overall findings have been commented on in Section 2.

Rosh Hashanah and the registration date of the DiBiase campaign

11. DiBiase registered for the election campaign on September 7, 2010 and Rosh Hashanah commenced at sundown on September 8, 2010. The DiBiase campaign provided a pamphlet that was distributed prior to Rosh Hashanah. Due to the timing, our compliance audit identified the production of this pamphlet as a possible incurrence of campaign expenses outside of the campaign period that required further investigation.
12. As set out in paragraph 3.19, Ms. Liddy introduced an unsworn affidavit from a third party alleging receipt by that third party of Rosh Hashanah materials prior to September 7, 2010.
13. As set out in paragraphs 3.20 to 3.24, we obtained additional third party information from the designing and printing companies respectively. This information confirmed the allegations in part although there were some inconsistencies as reported in paragraph 3.23, plus one additional item, as follows:
 - a) The artwork cost also included the design of a "Greetings from the Family" card that was similar to what was also included within the pamphlet. We have included the cost of the art design work in the total design costs described in paragraph 3.20 that has been referred to in our overall finding at paragraph 2.12. We have not seen any evidence from the printing company that the card was printed for or invoiced to the campaign.
14. Subsequent to issuing our report, Ken Froese ("Froese") spoke with the third party that signed the affidavit. Her representations provide further confirmation to our findings in paragraph 2.12 that the Candidate had incurred campaign expenses prior to registering as a candidate. Where we have referred to "a portion (if not all) of the expenses..." the third party claimed that she received all of the printed pamphlets and greeting cards prior to September 7, 2010. Although she claims to have boxes of these materials in her possession, verifying when these materials were actually received by her is not possible.



15. As set out in paragraph 2.12, we concluded that there was an apparent contravention of the Act but were unable to conclude whether it applied to a portion or all of the related expenses of producing the Rosh Hashanah pamphlet.

Other

16. In paragraph 3.30, FFP has identified that for 2006 and 2010 there were “differences not identified” between the total qualified donors listed on the annual T3010 charitable tax return and the individual supporting details. The Qualified Donee Worksheet only contains spaces for ten (10) names. However, the Canada Revenue Agency, Charities division (“CRA”) Guide is quite specific in outlining the requirements for listing all qualified donees, as follows:
- a) For 2006, the Guide¹ states in part that: “...you **must** attach a list with the name of each qualified donee...”; and
 - b) For 2010, the Guide² states in part that: “Where a gift has been made to a qualified donee, provide the name of each qualified donee...”
17. Despite the foregoing requirements, at no point was there any implication made or intended by FFP that the Foundation paid monies to unqualified donees. Paragraph 3.32 outlines the powers available to CRA, should they ever discover any irregularities.

Modifications to be considered to our Report

18. The following details our revision and clarification to the compliance audit report dated March 15, 2012:
- a) Paragraph 2.17 of our Report states that:

“These monies would in turn be held in trust until 2014 pursuant to Subsection 79(8) of the Act, pending a decision on whether the Candidate decides to run for elected office again.”

This sentence should be deleted and replaced by the following:

“These monies would in turn be held in trust for use by the candidate if the candidate incurs expenses related to a recount, an application for a controverted election, or a compliance audit, in accordance with Subsection 79.1 of the Act. If the surplus is not needed for these expenses, it would become the property of the municipality or local board.”

¹ CRA Guide #T4033A (E) Rev. 06 entitled Completing the Registered Charity Information Return, pp 12.

² CRA Guide #T4033-1 (E) entitled Completing the Registered Charity Information Return, pp 13.



- b) Further to paragraph 2.17, the Candidate has no doubt incurred legal and other expenses pursuant to the compliance audit that are considerably in excess of the \$408.57 figure calculated in paragraph 3.29 and summarized in paragraph 2.17. Accordingly, in our opinion, provided the candidate can provide supporting invoices, he should be able to either retain the \$408.57 refund or pay it to the City clerk and request its return.
- c) Paragraph 1.11 of our Report states that:

"We reviewed the calculation of the deficit carried forward from the preceding election as filed by DiBiase and agreed the amounts to the audit report as reported pursuant to the 2006 compliance audit. We relied on the results of the previous compliance audit and did not further verify the amounts against supporting documentation or financial records filed during the 2006 election."

It should be clarified that the amounts included in the calculation of the deficit carried forward were agreed to the compliance audit report prepared by LECG Canada Ltd. in relation to the 2006 DiBiase election campaign.

Restrictions and Limitations

- 19. This Addendum to our Report dated April 2, 2012 was prepared for the City of Vaughan in relation to the compliance audit regarding the 2010 election campaign finances of Michael DiBiase requested by City Council. It should be read in conjunction with our Report dated March 15, 2012. It is not to be used for any other purpose and we specifically disclaim any responsibility for losses or damages incurred through use of this Addendum to our Report for a purpose other than as described in this paragraph.
- 20. Although we reserve the right, we will be under no obligation to further review and/or revise the contents of our Report in light of information which becomes known to us after the date of this Addendum.
- 21. This Addendum to our Report is respectfully submitted by Bruce Armstrong of FFP and Glen R. Davison. We were assisted in the compliance audit by Ken Froese and Grace Lau of FFP.



Yours truly,

Bruce Armstrong, FCA, CFE
Managing Director
Froese Forensic Partners Ltd.