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**Compliance Audit Report
For the City of Toronto
Re: Peter Karl Youngren**

May 25, 2012



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Appendix A – What the Act and Guide say about Financial Records and Contributions

1 Introduction

Background to the Compliance Audit

- 1.1 This Report is the result of a request for a compliance audit under Section 81 of the Municipal Elections Act, 1996 (“**the Act**”) in relation to the campaign finances of Peter Karl Youngren (“**Youngren**” or “**the Candidate**”).
- 1.2 Youngren filed for election as Councillor for Ward 34 on March 29, 2010.
- 1.3 On March 16, 2011, Youngren attested that the financial statement for the campaign period from March 29, 2010 to December 31, 2010 (the “**Financial Statement**”) was true and correct to the best of his knowledge and belief.
- 1.4 On June 22, 2011, Adam Chaleff-Freudenthaler (“**Chaleff-Freudenthaler**” or “**the Applicant**”) submitted a request for a compliance audit to the City of Toronto (“**the City**”) Compliance Audit Committee (“**the Committee**”). The Applicant identified the following issue regarding the Financial Statement:
 - 1) That the Youngren campaign accepted contributions from two corporations in violation of Section 70(7) of the Act.
- 1.5 On July 20, 2011, the Committee met to consider the merits of the application and determined that a compliance audit of the Financial Statement be conducted for the 2010 election campaign finances of Peter Youngren pursuant to Subsection 81(7) of the Act.
- 1.6 Bruce Armstrong of Froese Forensic Partners Ltd (“**FFP**”) and Glen R. Davison, CA, were retained to conduct the compliance audit in accordance with the Act. Subsection 81(9) of the Act requires that the auditor prepare a report “*outlining any apparent contravention by the candidate.*” This Report contains our findings in relation to our compliance audit of the Financial Statement submitted by Youngren.

Our Approach to the Compliance Audit

- 1.7 The objective of our compliance audit is to report any apparent contraventions of the Act identified through the course of our compliance audit related to the Financial Statement filed by Youngren. We have set out our understanding of a number of relevant sections of the Act as **Appendix A** to this Report.



- 1.8 The compliance audit addressed the issues that are relevant to the 2010 Financial Statement of the Youngren campaign sworn by the applicant. The audit also addressed other matters identified through the compliance audit process, including:
- 1) Whether the fair market value of goods and services were reflected in the Financial Statement as contributions and expenses;
 - 2) Whether campaign expenses were appropriately supported by invoices or other supporting documentation and incurred as appropriate; and
 - 3) Whether the Financial Statement was prepared in accordance with the Municipal Elections Act 1996 ("**the Act**") and the City of Toronto 2010 Municipal Election Candidate's Guide ("**the Guide**").

Procedures Performed

- 1.9 Our procedures related to the compliance audit included:
- 1) A review of the Compliance Audit Application filed by the Applicant;
 - 2) A review of the Financial Statement and supporting documents;
 - 3) An ongoing review of the Act and the Guide;
 - 4) Examination of the accounting and financial documentation provided by the City;
 - 5) Performing corporate searches on corporate contributors;
 - 6) Scheduling and attendance at a meeting with Youngren on January 17, 2012. A number of undertakings were made at the time by Youngren;
 - 7) Ongoing correspondence with Youngren, in particular to follow-up undertakings that were made earlier;
 - 8) Written communication with the Applicant and with a sample of campaign contributors;
 - 9) A debrief meeting with Youngren on March 7, 2012; and
 - 10) Preparation of our report.



2 Overall Findings

General

- 2.1 Youngren and his campaign team cooperated fully with the compliance audit process and provided detailed explanations as requested. We found the Youngren campaign records to be well maintained, organized, and consistent with the requirements of the Act.
- 2.2 The Financial Statement for the period March 29, 2010 to December 31, 2010 reported a deficit of \$37.10 with total contributions of \$27,835.00.
- 2.3 Youngren reported a campaign expense limitation of \$30,282.00 however the allowable limit as issued by the City Clerk for Ward 34 candidates was \$31,701.90. The Financial Statement reported campaign expenses subject to limitation of \$25,961.19 and expenses not subject to limitation of \$1,910.91.

Contributions

- 2.4 We did not identify any contributions in excess of the allowable limits as prescribed by the Act.
- 2.5 There was a contribution in the amount of \$500.00 from a corporation, Star Media Branded Entertainment Group Inc ("**Star Media**"). In our opinion, this contribution is an apparent contravention by both the contributor and the Candidate with respect to the City of Toronto By-Law 1177-2009 and Subsection 70.1(1) of the Act. This is further discussed in paragraphs 3.1 to 3.3.
- 2.6 There was a contribution of \$300.00 from Greenscapes Irrigation ("**Greenscapes**") that was recorded as a corporate contribution whereas Greenscapes was a sole proprietorship at the time of this contribution and the contribution was thus from an individual. In our opinion, this is an apparent financial reporting contravention of Subsections 69(1)(k) and 78(1) of the Act that requires that the Financial Statement be filed in the prescribed form. This is further discussed in paragraphs 3.1 and 3.2.
- 2.7 There was a cash contribution of \$300.00 from Amy Youngren. As cash is unable to be traced, it is not possible to confirm that the source of this contribution was Youngren's spouse. In our opinion, the contribution of cash is an apparent contravention by the contributor of Subsection 70(8) of the Act and an apparent contravention by the Candidate of Subsections 69(1)(l) and 70(8) of the Act. This is further discussed in paragraphs 3.5 and 3.6.



- 2.8 The Candidate reported contributions in his Financial Statement that he and his spouse, Amy Youngren, had made totalling \$1,000 under "All other contributions" as opposed to reporting them separately on the lines allocated for these contributions. In our opinion this is an apparent financial reporting contravention of Subsections 69(1)(k) and 78(1) of the Act. This is further discussed in paragraph 3.7.
- 2.9 We identified several instances of contributions made from the joint bank accounts of contributors, however the receipt was not always issued to the cheque signor or the signature on the cheque was illegible. We do not consider these items to be apparent contraventions of the Act but the issuance of the receipt did not, in all cases, follow the Guide. This is further discussed in paragraphs 3.8 to 3.13.

Financial Reporting

- 2.10 As discussed in paragraphs 3.14 and 3.15, the bank charges were understated by \$67.95 and the account and audit fees were overstated by \$104.90 in the Financial Statement. In summary, the expenses have been overstated by \$36.95. These are apparent financial reporting contraventions of Subsections 69(1)(k) and 78(1) of the Act requiring that the Financial Statement be filed in the prescribed form.
- 2.11 The effects on the Financial Statement of the changes discussed in paragraphs 2.5, 2.7 and 2.10 are set out in the chart at paragraph 3.17. To summarize, FFP has calculated an increase in the campaign deficit of \$763.05 from (\$37.10) to (\$800.15).
- 2.12 The Candidate understated his allowable spending limit in the Financial Statement by \$1,419.90. This does not affect the deficit calculated in the preceding paragraph. While minor, this is an apparent financial reporting contravention of Subsections 69(1)(k) and 78(1) of the Act that requires that the Financial Statement be filed in the prescribed form.



3 Details in Support of Findings

Contributions

3.1 Contributions were recorded as having been received from two companies as follows:

Company Name	Address	Cheque Date	Contribution
Star Media Branded Entertainment Group Inc	53 Sunset Beach Rd., Richmond Hill	Jun. 10, 2010	\$ 500.00
Greenscapes Irrigation	24 Baraniuk St., St. Catharines	May 16, 2010	300.00
TOTALS			<u>\$ 800.00</u>

- 3.2 FFP conducted corporate searches for both entities and determined that at the time the cheque was issued by Greenscapes, it was a sole proprietorship and therefore the contribution was compliant with the Act and eligible for a rebate. Greenscapes was fully operational prior to being incorporated on June 15, 2010. This contribution should have been recorded as a contribution from the owner Chris Shirchenko and Mr. Shirchenko should be entitled to a rebate.
- 3.3 FFP communicated with Giacomo Moncada ("**Moncada**"), the principal of Star Media, who responded in writing that the corporate cheque was recorded in the books and records of Star Media as loans/advanced to the principal. This transaction would have the effect of funds coming from the individual by way of his corporate entity. Upon receipt, this cheque should have been returned and a personal cheque should have been issued to the campaign by Moncada.
- 3.4 FFP noted during our audit that Youngren's team had initially received a contribution from Savana Construction and this cheque was returned and replaced by a personal cheque. This action on the part of the Youngren team indicated that they had an awareness of from whom they were able to receive contributions and that corporate contributions should not be accepted.
- 3.5 Contributions were typically deposited using an automated teller machine ("**ATM**"). The first contribution that was deposited to Youngren's campaign bank account was \$300.00 deposited through the ATM. Mr. Youngren advised us that the initial deposit on April 1, 2010 was cash from Amy Youngren. The cash should have been returned and replaced by a cheque.



- 3.6 As cash loses its identity, it is not possible to determine with certainty that these funds originated with the Candidate's spouse. However, we have no information to the contrary and only became aware of this through the Candidate's admission.
- 3.7 Youngren contributed \$700 on December 1, 2010 to his campaign, however it was not disclosed as a candidate contribution in his Financial Statement. The \$300 cash contribution from Amy Youngren, his spouse, was not disclosed separately as a spousal contribution.

Receipts Issued for Contributions from Joint Personal Bank Accounts

- 3.8 We identified instances where contributions were made by a contributor issuing a cheque that displayed two (2) individuals as apparent signatories to the account.
- 3.9 We noted that the following situations existed on the cheques with two (2) names noted as signatories:
- 1) A receipt was issued to the individual signing the cheque (nineteen (19) instances; and
 - 2) The signature was illegible and the appropriate recipient of the receipt could not be determined (eleven (11) instances).
- 3.10 The Act states under subsection 69(1)(e) that a candidate shall ensure that "*receipts are issued for every contribution...*"
- 3.11 The Guide states on page 39 that:
- "Only one contributor can be listed on a receipt. If a cheque is from a joint personal bank account the receipt must have the name of the person who signed the cheque. If both contributors signed the cheque, the candidate must determine how much each person contributed and issue a separate receipt to each person."*
- 3.12 According to the Guide, any situation where the receipt was issued to an individual on a joint account but was not the signatory is an apparent financial reporting contravention. However, the Act does not specify to whom a receipt should be issued when a contributor uses a joint account with two or more signatories.
- 3.13 There were no situations of excess contributions in any of these situations and a receipt was issued to one or both of the signatories.



Financial Reporting

- 3.14 Bank charges were incurred by the Youngren campaign for thirteen months from March 2010 to March 2011, the period during which the campaign bank account was open. The Financial Statement reported \$154.00 for bank charges. The amount paid in bank charges to the financial institution was \$189.70. Youngren also used PayPal to accept campaign contributions and was charged fees totalling \$32.25 for the service. The total amount Youngren paid for bank fees was \$221.95.
- 3.15 At the time of preparing the Financial Statement, the accounting and audit fees were estimated at \$950.00 as an invoice had not yet been received from Youngren's accountant. This amount was recorded as a payable in the Financial Statement and was over estimated by \$104.90, with the final audit cost totalling \$845.10.
- 3.16 The Financial Statements, Form 4 recorded under Box C, under income, "All other contributions" a total of \$27,835.00. This amount included \$700.00 from the candidate, Peter Youngren and \$300 from the candidate's spouse, Amy Youngren. These two amounts should have been shown separately on the previous two line items, notwithstanding the fact that the cash contribution from Amy Youngren is an apparent contravention of the Act.
- 3.17 We calculated a revised deficit based on the following items as set out in the table below:
- 1) The ineligible \$500 contribution from Star Media;
 - 2) The ineligible \$300 cash contribution from Amy Youngren;
 - 3) The adjusted amount for bank charges; and
 - 4) The adjusted amount for accounting and audit fees.

Campaign Period Income and Expenses	As Filed	Adjustments	As Adjusted
Income			
Contributions from Candidate	-	700.00	700.00
All other Contributions	27,835.00	(1,500.00)	26,335.00
Revised Campaign Period Income	27,835.00	(800.00)	27,035.00
Expenses			
Subject to spending limit	25,961.19	-	25,961.19
<i>Other expenses adjusted as follows:</i>			
Bank charges	154.00	67.95	221.95
Revised expenses subject to the spending limit	25,961.19	67.95	26,029.14



Campaign Period Income and Expenses	As Filed	Adjustments	As Adjusted
Not subject to spending limit and not adjusted	1,910.91	-	1,910.91
<i>Other expenses adjusted as follows:</i>			
Accounting and audit	950.00	(104.90)	845.10
Revised expenses not subject to the spending limit	1,910.91	(104.90)	1,806.01
Total Campaign Period Expenses	27,872.10	(36.95)	27,835.15
Excess (Deficiency) of Income over Expenses	(37.10)	(763.05)	(800.15)



4 Restrictions and Limitations

- 4.1 This Report was prepared for the City of Toronto in relation to the compliance audit regarding the 2010 election campaign finances of Peter Youngren requested by the Compliance Audit Committee. This report is not to be used for any other purpose and we specifically disclaim any responsibility for losses or damages incurred through use of this Report for a purpose other than as described in this paragraph.
- 4.2 Although we reserve the right, we will be under no obligation to review and/or revise the contents of this Report in light of information which becomes known to us after the date of this Report.
- 4.3 This Report is respectfully submitted by Bruce Armstrong of FFP and Glen R. Davison. We were assisted in the compliance audit by Stuart Douglas and Ainsley Vaculik of FFP.

Yours truly,

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Froese Forensic Partners Ltd.

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APPENDIX A

What the Act & Guide say about Financial Records and Reporting

Re: Peter Youngren

What the Act and Guide Say About Financial Records

- 1.1 Subsection 69(1) of the Act, under the heading “Duties of candidate,” requires candidates to:
- 1) Open one or more bank account in the name of the candidate’s election campaign exclusively for the purposes of the election campaign (69(1)(a));
 - 2) Deposit all contributions into campaign bank account(s) (69(1)(b));
 - 3) Make all payments of expenses from the campaign bank account(s) other than the nomination filing fee (69(1)(c));
 - 4) Value all contributions of goods and services (69(1)(d));
 - 5) Receipts are issued for every contribution (69(1)(e));
 - 6) Retain receipts for all expenses (69(1)(g) and (h)) for the term of office of the members of council or until their successors are elected;
 - 7) Financial filings are made in accordance with sections 78 and 79.1 (69(1)(k)); and
 - 8) Proper direction is given to those authorized to incur expenses and accept or solicit contributions on behalf of a candidate (69(1)(l)).
- 1.2 Subsection 78(1) of the Act, under the heading “Financial Statement and Auditor’s Report”, states that *“on or before 2 p.m. on the filing date, a candidate shall file with the clerk with whom the nomination was filed a financial statement and auditor’s report, each in the prescribed form, reflecting the candidate’s election campaign finances”*.
- 1.3 In the section “After Election Day” under the heading “Financial Statement” (page 77), the City of Toronto 2010 Municipal Election Candidate’s Guide states that it is the responsibility of the candidate to ensure they file a complete and accurate financial statement on time.

What the Act and Guide Say About Contributions

- 1.4 Subsections 70(1) and 70(2) of the Act provide that a contribution should only be made to or accepted by a candidate within his or her election campaign period.
- 1.5 In the section “Before Election Day” under the heading “Accepting Campaign Contributions” (page 39), the City of Toronto 2010 Municipal Election Candidate’s Guide

includes that any contribution over \$25 must be made by cheque, money order or credit card. On the same page under the heading "Receipts for Contributions," it specifies that *"If a cheque is from a joint personal bank account the receipt must have the name of the person who signed the cheque."*

- 1.6 Subsection 70(8) of the Act does not permit contributions of cash in excess of \$25 to be either made by contributors or accepted by the candidate
- 1.7 Subsection 70.1(1) of the Act states that *"the City of Toronto may by by-law prohibit a corporation...or a trade union...from making a contribution to or for any candidate for an office on city council."* The City of Toronto passed by-law 1177-2009 prohibiting contributions from corporations or trade unions to or for candidates running for an office on Toronto City Council.
- 1.8 The Act does not permit contributors to make contributions exceeding \$750 to any one candidate in an election (Subsection 71(1)).
- 1.9 Where a contribution is made or received in contravention of the Act, paragraph 69(1)(m) requires that the contribution be returned to the contributor *"as soon as possible after the candidate becomes aware of the contravention"*. Paragraph 69(1)(n) also requires that a contribution not returned to the contributor is paid to the City Clerk.