

RESPONSE TO APPLICATION

Introduction

1. Please find below responses by the Rob Ford Campaign for Mayor of Toronto (the “Campaign”) to allegations in the application for a compliance audit filed by David DePoe (the “Applicant”).
2. The Campaign’s response to a previous application for a compliance audit filed by Max Reed and Adam Chaleff-Freudenthaler is attached and re-submitted in response to this application. The information/documents filed and the submissions made in respect of such previous application (the “Campaign’s Previous Response”) are adopted and re-submitted, as applicable, in response to this application.
3. Where possible, for the convenience of the audit compliance committee, the Applicant’s headings and numbering have been used in this response.

Background

1. As stated in the Campaign’s Previous Response, the Campaign submits that it complied fully with the *Municipal Elections Act, 1996* (“MEA”) and denies all allegations that it breached any provision of the *MEA* or City of Toronto By-law 1177-2009 (“the By-law”).
2. All campaign filings required to date have been submitted. However, the campaign period for the Campaign has not ended (having been duly extended by notification to the clerk on or before December 31, 2010, pursuant to and in accordance with the *MEA*) and is deemed to run continuously from the date of nomination to June 30, 2011. As such, a final financial statement, current to June 30, 2011, is not required to be filed until September 30, 2011.

3. A previous application for a compliance audit has been granted. Two other applications for a compliance audit have been dismissed. In accordance with the *MEA*, the decision to grant the application has been appealed to obtain guidance from and a decision of the Court.

4. Because of the foregoing and because the threshold for granting an audit is not met, the Campaign submits that the compliance audit requested by the Applicant is not required and the application should be dismissed.

Responses to reasons given by the Applicant

The following sets out the Applicant's reasons why the audit compliance committee should request an audit of the Campaign accounts and the Campaign's responses:

1. It appears that the campaign incurred expenses in advance of the candidate registering on March 25, 2010 for example the invoice for the Toronto Congress centre was signed on the 24th of March and printed invitations were mailed out two weeks prior.

Response: The expense was not incurred before the candidate was registered. Please refer to the Campaign's Previous Response.

2. It appears that the campaign held an event on March 26, 2010, and claimed it was a fundraising event, even though the invitations said it was "complimentary" and there was no ticket charge and no legitimate effort was made to collect funds from attendees. These event expenses of \$34,371.72 should be subject to campaign expense limits and not exempted as fundraising expenses

Response: The event was a fund-raising function within the meaning of the *MEA* and the City of Toronto 2010 Candidates Guide. Furthermore, significant funds were raised at and as result of the event, including approximately \$8,000 on March 26, 2010.

3. It appears that Doug Ford Holdings Inc. incurred expenses on behalf of the Rob Ford Campaign which is contrary to the Municipal Elections Act.

Response: Doug Ford Holdings Inc. did not incur expenses contrary to the *MEA*. Please refer to the Campaign's Previous Response.

4. It appears that Doug Ford Holdings Inc. provided credit to the Rob Ford Campaign by way of paying for campaign expenses that the campaign could not otherwise finance. It is not clear when or if these expenses were ever reimbursed.

Response: Doug Ford Holdings Inc. was fully paid in 2011, when suppliers to the Campaign were paid who had not previously been paid. Please refer to the Campaign's Previous Response.

5. It appears that the credit service provided by Doug Ford Holdings Inc. to the Rob Ford Campaign that were more generous than commercially available constituted a corporate donation that is prohibited by City of Toronto by-law and may have exceeded the allowable donation limited (\$2,500) established by provincial statute.

Response: Such a credit service was not provided by Doug Ford Holdings Inc. There was no such corporate donation. Please refer to the Campaign's Previous Response.

6. It appears that Deco Labels & Tags incurred expenses on behalf of the Rob Ford Campaign contrary to the Municipal Elections Act.

Response: Deco Labels & Tags was a supplier to the Campaign and was paid like other suppliers.

7. It appears that Deco Labels & Tags provided credit to the Rob Ford Campaign by way of paying for campaign expenses that the campaign could not otherwise finance. It is not clear when or if these expenses were ever reimbursed. Election law is clear that if a candidate wants to borrow money he has to borrow from a financial institution.

Response: Deco Labels & Tags was a supplier, not a lender, to the Campaign and was paid like other suppliers.

8. It appears that the credit terms provided by Deco Labels & Tags to the Rob Ford Campaign that were more generous than commercially available constituted a corporate donation that is prohibited by City of Toronto by-law and may have exceeded the allowable donation limited (\$2,500) established by provincial statute.

Response: Deco Labels & Tags was a supplier, not a lender, to the Campaign and was paid like other suppliers. There was no such corporate contribution.

9. Deco Labels & Tags was also a supplier of printing services to the Rob Ford Campaign. Given that these were non arms-length transactions, the compliance audit committee needs to determine whether these services were provided on a fair market value basis and whether the credit terms were comparable to other Deco Labels and Tags clients. It needs to be determined whether the Rob Ford Campaign derived an unfair benefit, and possibly a corporate contribution prohibited by Toronto by-law, because the candidate owned a printing company.

Response: Deco Labels & Tags did not make a corporate contribution to the Campaign. There is no evidence that any goods or services supplied by Deco Labels & Tags were supplied on a basis that would result in a corporate contribution.

10. It appears that the events at the Liberty Grand and the Capitol Event Theatre included discounts from those venues that constituted donations to the Rob Ford Campaign that are prohibited by City of Toronto by-law and exceed limits set-out in provincial statute.

Response: Liberty Grand and the Capitol Event Theatre were suppliers to the Campaign. There is no evidence that any goods or services were supplied on a basis that would result in a corporate contribution.

11. It seems that Prime Contract provided automated dialling services that are billed at different rates to the Rob Ford Campaign. If any of these rates are at less than fair market value these expenses should be restated and subject to campaign expense limits.

Response: Prime Contract was a supplier to the Campaign. There is no evidence that any goods or services were supplied on a basis that would result in a corporate contribution.

12. It appears that Michael Robertson provided a recreational vehicle to the campaign at rates lower than fair market value and that this may constitute a campaign contribution exceeding the statutory limit (\$2,500); the true fair market value of the RV should be added to the expenses subject to the limit.

Response: Michael Robertson was a supplier to the Campaign. There is no evidence that any goods or services were supplied on a basis that would result in a corporate contribution.

Response to Concerns of the Applicant

The following summarizes the concerns expressed by the Applicant and the Campaign's responses:

Applicant's CONCERN A: "Spending by or on behalf of the campaign prior to the campaign"

Response: Expenses were not incurred prior to the campaign. Please refer to the Campaign's Previous Response and responses given to the reasons of the Applicant, above.

Applicant's CONCERN 2: "Inappropriate financial transactions by the candidate's companies on behalf of the campaign; this also raises the question of fair market value because these are non-arms-length transactions"

Response: There were no inappropriate financial transactions by any companies on behalf of the Campaign or any corporate contributions by reason of goods or services being supplied at less than fair market value, or otherwise. Please refer to the Campaign's Previous Response and responses given to the reasons of the Applicant, above. All campaign-related invoices were fully and properly paid by the Campaign, including any such invoices relating to goods and services supplied by Deco Labels & Tags or other suppliers.

Applicant's CONCERN 3: "Spending above the campaign spending limit"

Response: Please refer to the Campaign's Previous Response and responses given to the reasons of the Applicant, above, with respect to the event on March 26, 2010.

Applicant's CONCERN 4: "Fair market value of certain goods and services"

Response: Deco Labels & Tags did not make a corporate contribution to the Campaign. There is no evidence that any goods or services supplied by Deco Labels & Tags or any other suppliers were supplied on a basis that would result in a corporate contribution. Please see responses to the reasons of the Applicant, above.