

A compliance audit, in conjunction with a unanimous vote by the Audit Committee to pursue charges against Mr. Mark Taylor confirms that there are apparent violations of the Municipal Elections Act (MEA). It'll now be up to the courts to make a determination if he has actually violated the MEA.

Every single candidate in the 2014 Ontario Municipal Election was required to comply with the provisions of the MEA, and Mr. Taylor is no exception.

Mr. Taylor's lawyers, accountants, and spin doctors will undoubtedly twist the MEA into knots, and portray Mr. Taylor as an innocent victim of an Act that is either too vague, or too complicated.

Before that happens, let's *take a look at what the MEA actually says vs. what Mr. Taylor reported* on his official financial statement.

Let's start with a very clear, overriding provision of the MEA:

General offence

94. A person who contravenes any provision of this Act is guilty of an offence. 2009, c. 33, Sched. 21, s. 8 (68).

Section 92. (5) (a) is equally clear. It's an offence to file a document (financial statement) that's incorrect, or does not comply.

Offences by candidate

(5) A candidate is guilty of an offence and, on conviction, in addition to any other penalty that may be imposed under this Act, is subject to the penalties described in subsection 80 (2), if he or she,

(a) files a document under section 78 or 79.1 that is incorrect or otherwise does not comply with that section; or

Section 80 (2) describes the penalty for filing a financial statement that is incorrect or does not comply. The *candidate forfeits any office to which they were elected*.

Refund of Campaign Funds to Candidate

Ignore all the *noise* being made by the candidate and his legal/accounting team surrounding this issue, and just look at the official 2014 financial statement at face value, there is one simple question to ask.

Does it clearly and accurately reflect Mr. Taylor's 2014 campaign finances, or is it incorrect, or otherwise not comply with the reporting requirements?

| Box D: Calculation of Surplus or Deficit | | | |
|---|---|----------------------|----|
| Excess (deficiency) of income over expenses (Income – Total Expenses) (C1 – C4) | + | \$ 2,732.65 | D1 |
| Eligible deficit carried forward by the candidate from the last election | - | \$ 4,049.69 | D2 |
| Total (D1 – D2) | = | \$ (1,317.04) | |
| If there is a surplus, deduct any refund of candidate's or spouse's contributions to the campaign | - | \$ | |
| Surplus (or deficit) for the campaign | = | \$ (1,317.04) | D3 |

If line D3 shows a surplus, the amount must be paid in trust, at the time the financial statements are filed, to the municipal clerk who was responsible for the conduct of the election.

Amount of \$ 0 paid to municipal clerk in the municipality of _____.

A Compliance Audit revealed that Mr. Taylor refunded himself \$2,733 after the 2014 election campaign. That *isn't reported* on his financial statement. The line entry showing a refund of candidate's contributions is blank.

* This is an *apparent violation of Section 92. (5) (a)* of the MEA

Section 79.(6) of the MEA says a candidate may refund their own contributions to the election campaign *IF there is a surplus for the campaign*. The financial statement clearly shows there was no campaign surplus. No surplus, no refund – it's that simple.

* This is an *apparent violation of Section 79. (6)* of the MEA

There were multiple opportunities for Mr. Taylor to disclose this refund. It could have been reported in the official financial statement, the unofficial supplementary financial statement, or at the initial compliance audit committee meeting. Unfortunately it wasn't. It was only revealed through a compliance audit.

Deficit Claimed from 2010 Campaign (which reported no deficit)

Mr. Taylor's financial statement (shown above) declared that his 2014 election campaign had an excess of income over expenses of \$2,733. He then **claimed there was an eligible deficit from 2010** of \$4,049.

That turned what would have been a \$2,733 campaign surplus (which must be paid to the municipal clerk) into a \$1,317.04 campaign deficit.

Problem is, **Mr. Taylor's official 2010 financial statement shows there was no deficit.**

| Box E: Statement of Determination of Surplus or Deficit and Disposition of Surplus | | |
|---|---|----------------|
| Part I – Determination of Surplus or Deficit | | |
| Amount of excess (deficiency) of income over expenses (from Box C) | + | \$ 0.00 E1 |
| Deduct: Any deficit carried forward by the candidate from immediately preceding election if the offices are with respect to the same jurisdiction | - | \$ E2 |
| Surplus (or deficit) for the campaign period (E1) – (E2) | = | \$ 0.00 |
| Deduct: Any refund of contributions to the candidate or spouse (only if there is a surplus) | - | \$ E3 |
| Total Determination | = | \$ 0.00 |
| Part II – Disposition of Surplus | | |
| If line E3 shows a surplus, the amount must be paid in trust, at the time the financial statements are filed, to the municipal clerk who was responsible for the conduct of the election. | | |
| Surplus paid to the municipal clerk of the municipality of <u>Ottawa</u> | | |

* This is an *apparent violation of Section 92. (5) (a)* of the MEA

Nomination Filing Fee:

All candidates who are elected, receive a refund of their nomination filing fee. That refund *must* be recorded on the financial statement, however in this case, it wasn't.

It was claimed as an expense, yet was not claimed as income despite a clear line entry for it. Not declaring the nomination filing fee would have a direct impact on the final campaign surplus.

| Box C: Statement of Campaign Income and Expenses | | |
|--|----------|------------------------|
| LOAN | | |
| Name of bank or recognized lending institution | _____ | |
| Amount borrowed | \$ | _____ |
| INCOME | | |
| Total amount of all contributions (From line 1A in Schedule 1) | + | \$ 35,731.16 |
| Refund of nomination filing fee | + | \$ _____ |
| Sign deposit refund | + | \$ _____ |
| Revenue from fund-raising events not deemed a contribution (From Part III of Schedule 2) | + | \$ _____ |
| Interest earned by campaign bank account | + | \$ _____ |
| Other (provide full details) | | |
| 1. | + | \$ _____ |
| 2. | + | \$ _____ |
| 3. | + | \$ _____ |
| Total Campaign Income (Do not include loan) | = | \$ 35,731.16 C1 |

* This is an *apparent violation of Section 92. (5) (a)* of the MEA

* This is **one of** the apparent violations the audit neglected to identify

Financial Statement - Missing Corporate Donor Information

The Financial Statement requires the candidate to identify the President or Business Mgr. and the Authorized Representative for Corporate donations.

Mr. Taylor neglects to disclose the required information.

| MARK TAYLOR MUNICIPAL ELECTION CAMPAIGN BAY - WARD 7 SCHEDULE 1 - PART II LIST OF CONTRIBUTIONS FROM EACH SINGLE CONTRIBUTOR TOTALLING MORE THAN \$100 TABLE 2 - MONETARY CONTRIBUTIONS FROM CORPORATIONS OR UNIONS | | | | | | |
|--|------------------------|---------|----------|-------------|-----------------|--|
| Name | Address | City | Province | Postal Code | Amount Received | |
| Campbell Steel & Iron Works Ltd | 1801 Woodward Drive | Ottawa | ON | K1P 5T6 | 500.00 | |
| Capital Sports & Entertainment Inc. | 100 Palladium Drive | Kanata | ON | K2V 1A5 | 300.00 | |
| Colonnade Developments Inc. | 200-16 Concourse Gate | Ottawa | ON | K2E 7S8 | 500.00 | |
| DCR Phoenix Development | 16A Bentley Avenue | Ottawa | ON | K2E 6T8 | 500.00 | |
| Ferguslea Properties Limited | 292 St. Patrick Street | Ottawa | ON | K1N 5K5 | 750.00 | |
| Geospace Research Associates | 491 Edgeworth Avenue | Ottawa | ON | K2B 5L2 | 200.00 | |
| Main and Main Developments Inc. | 400-85 Hanna Avenue | Toronto | ON | M6K 3S3 | 300.00 | |

This is key disclosure information that among other things can help determine if companies are legally entitled to make a donation.

In the court decision, *Lancaster v. Compliance Audit Committee et al.*, 2012 ONSC 5629, the courts ruled (Paragraph 91) that not identifying the President or Business Manager is a “*significant omission and amounts to a breach of the Act*”. <http://tinyurl.com/o5dpjor>

In *Lancaster v. Compliance Audit Committee et al.*, 2013 ONSC 7631, the courts advised on the importance of filing an accurate Financial Statement: <http://tinyurl.com/ntr5n2s>

[21] One would be unwise to dismiss Form 4 as bureaucratic fodder undeserving of careful attention. The importance of the requirement to file a proper Form 4 is apparent from the penalty provisions of the *Act*.

[22] If prosecuted under s. 92(5), a candidate who files a Form 4 “that is incorrect or otherwise does not comply with [s. 78(1)]” must forfeit “any office to which he or she was elected . . .”: see s. 80(2)(a) of the *Act*.

- * This is a clearly an *apparent violation of Section 92. (5) (a)* of the MEA
- * This is **one of** the apparent violations the audit neglected to identify

There’s still the possibility that there are additional apparent violations of the MEA. Only a thorough and independent compliance audit would confirm that.

Will the City Clerk’s office refuse to prosecute based on advice they receive from the prosecutor they choose? Sounds like a stretch, but that is exactly what was done by the public school board when they refused to prosecute Mr. Riley Brockington after the 2010 Election Compliance Audit Committee ordered charges be pursued against him.

Considering Mr. Taylor is now Deputy Mayor, will the crown attorney’s office step in and take over the prosecution from the City Clerk’s office in the name of public interest to ensure a fair and impartial decision on the prosecution?

These, and many more questions remain unanswered. Meanwhile, the provincial government sits idly by and lets this process run itself, along with the last shred of integrity in the Municipal Elections Act right into the ground.