



Town of The Blue Mountains

32 Mill Street, Box 310
Thornbury, ON N0H 2P0
Phone: 519-599-3131 Fax: 519-599-7723
<https://www.thebluemountains.ca>

Decision of the Grey County Compliance Audit Committee

Established under Section 88.9 and 88.8(4)(3) of the Municipal Elections Act, 1996

INTRODUCTION

Mr. Trevor Stooke (“Mr. Stooke”) and his wife Ms. Kara Stooke (“Ms. Stooke”) (the “Stooke’s”) are designers of advertising and marketing media. They are friends with the candidate, Ms. Paula Hope (“candidate”). Mr. and Ms. Stooke provided voluntary unpaid services to the candidate during the 2022 municipal election.

The Clerk of the Town of The Blue Mountains identified two apparent contraventions by the Stookes of the Municipal Elections Act, 1996 (“Act”) and referred the matter to the Grey County Compliance Audit Committee for review (the “Committee”). Specifically, was the Stooke’s \$1,500 contribution reported on the candidate’s Form 4 Financial Statement (“Form 4”) made by a corporation, and did it exceed the \$1,200 individual limit?

BACKGROUND

The contribution in question, that is the subject of this report, is as reported on the candidate’s Form 4, Table 4 – Contributions in Goods and Services from Individuals other than Candidate or Spouse:

CANDIDATE	CONTRIBUTOR	FULL ADDRESS	DESCRIPTION OF GOODS AND SERVICES	VALUE AMOUNT RECORDED
Paula Hope	Trevor Stooke, Agenda Marketing	[REDACTED]	Artwork and Website Services	\$1,500.00

ISSUES

In this case we have determined that there are three issues as follows:

1. Is this a prohibited contribution from a corporation carrying on business in Ontario?
2. Is this a “contribution”?
3. If an apparent contravention, should legal proceedings be commenced?



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RELEVANT PROVISIONS OF THE ACT

This case is about the rules around contributions to a candidate's municipal campaign.

Who can make a contribution?

Section 88.8(3) - Only the follow persons may make contributions:

1. An individual who is normally resident in Ontario.
2. Subject to subsection 5, the candidate and his or her spouse.

Section 88.8(4) speaks to who cannot contribute:

For greater certainty, and without limiting the generality of subsection (3), the following persons and entities shall not make a contribution:

3. A corporation that carries on business in Ontario.

Section 88.8(7) provides that "a contribution may be accepted only from a person or entity that is entitled to make a contribution".

Section 88.9(1) says that "a contributor shall not make contributions exceeding \$1,200 to any one candidate in an election".

What constitutes a contribution?

Section 88.15(1) states:

For the purposes of this Act, money, goods and services, given to and accepted by a person for his or her election campaign, or given to and accepted by another person acting under the person's direction, are contributions.

Notwithstanding subsection (1), subsection 88.15(4) states "without restricting the generality of subsections (1) and (2), the following amounts are not contributions:

1. The value of services provided by voluntary unpaid labour.



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How is the value of goods and services provided as a contribution calculated?

Section 88.15(5) states:

The value of goods and services provided as a contribution is,

- A. If the contributor is in the business of supplying these goods and services, the lowest amount the contributor charges the general public in the same market area for similar goods and services provided at or about the same time;
- B. If the contributor is not in the business of supplying these goods and services, the lowest amount a business providing similar goods and services charges the general public for them in the same market area at or about the same time.

THE EVIDENCE

Mr. Gavin Leitch of Georgian Bay Lawyers (“counsel”), counsel for Mr. Stooke provided the following:

1. Affidavit of Trevor Stooke (“Affidavit”), of the City of Hamilton, sworn May 29, 2023 which provided the following explanation for the services and related value attributed to said services:
 - Paragraph 4 of the Affidavit advised:

“When Paula decided to run for election in the town of The Blue Mountains for a second term in 2022, I was delighted to personally support her campaign with any design or copy development work that she required. I was happy to help her as my long-time friend and not as a customer. My wife, Kara, and I decided to contribute towards her campaign in our personal capacity, not through our business.”
 - Paragraph 5 of the Affidavit advised:

“As a result, I did not keep records of the projects that I prepared for her in the same manner as I might otherwise if dealing with a regular customer. This was also the case for the copy that my wife, Kara, developed for Paula’s campaign. There are no formal invoices for the design and writing material that we created for Paula as I was not thinking of our work for her campaign as a traditional business exercise. The efforts my wife and I put forth were a personal contribution to Paula’s campaign. We were pleased to help.”



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- Paragraph 7 of the Affidavit advised:
“At our regular rate of \$150/hour, the market value of the services provided in the form of a contribution towards Paula’s electoral campaign might therefore be quantified as follows, respectfully”
 - A. Trevor - \$1,050 (7 hours x \$150/hour); and
 - B. Kara - \$450 (3 hours x \$150/hour).

(Attached as Exhibit 1 to this decision)

- Counsel for Mr. Stooke submitted that, in the circumstance of this matter, the Act should be applied in a liberal or lenient way and cited the case of Braid v. Georgian Bay (Township), heard June 6, 2011, at Ontario Superior Court of Justice, decision of Justice T.M. Wood J ([2011] O.J. No. 2818, 83 M.P.L.R (4th) 335). Based on this, Counsel for Mr. Stooke requested that the Committee adopt the legal reasoning of this case and directed us to Paragraph 28 where Justice Wood states *“In my opinion this dichotomy between a strict liability for complete failure to file and a more lenient approach where the document is filed but incorrect in some way, is entirely consistent with the aims of the Act.”*
2. The Committee requested that Mr. Stooke’s counsel confirm that Agenda Marketing is not a corporation in Ontario, has not provided services as a company, and that the intention of the contribution was personal in nature. Counsel for Mr. Stooke advised that his client’s regular business is conducted through Stooke Media Inc., that no formal invoice has been prepared or provided by the corporation, and that the contribution made was personal in nature and based on the skills they possess.

ANALYSIS

Issue #1: Was the contribution from a corporation operating business in Ontario?

Based on the uncontradicted evidence provided, the Committee accepts that Mr. Stooke was operating in a personal capacity and not through his corporation, Stooke Media Inc. Therefore, there was no contravention of Section 88.8(4)(3) of the Act by Mr. Stooke.

Issue #2: Is this a “contribution”?

Based on plain reading of section 88.15(4), counsel for the Committee, Mr. Harold Elston, felt it was arguable as to whether the good and services provided by Mr. Stooke, by way of unpaid



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labour, should have even been considered a contribution to the campaign. (There appear to be inconsistencies in the Act).

In any event, the Committee notes that the candidate had reported the value of the services provided by Mr. Stooke as a contribution and, out of an abundance of caution, accepts it as such. The Committee applied section 88.15(5) and accepted the value of these services as provided by Mr. Stooke; the value provided by Mr. Stooke was at the fair market value of the services he and his wife, Ms. Kara Stooke, would charge to the general public.

Issue #3: If an apparent contravention, should legal proceedings be commenced?

The Committee notes that based on the evidence as presented on the candidate's Form 4, it would appear that Mr. Stooke contravened section 88.9 of the Act. However, based on the Affidavit presented to the Committee during the meeting, the Committee accepted that both Mr. Stooke and his wife work in the advertising and marketing industry and have both provided services towards the candidate's campaign. Mr. Stooke inadvertently failed to breakdown the value of the services as between himself and his wife. Understood in this way, both Mr. Stooke and his wife each individually contributed less than the \$1,200 limit.

CONCLUSION

For the above reasons, it is the decision of the Committee not to commence a legal proceeding against Mr. Stooke for an apparent contravention.

Dated at the Town of The Blue Mountains this 1st day of June, 2023

Written and approved by the following Committee Members:

Original Signed by the Compliance Audit Committee Members on June 1, 2023

Miranda Lahtinen (Chair)

Dan Sullivan

Bryan Allendorf

TO WIT:

)
) **IN THE MATTER OF**
) **Town of the Blue Mountains, County of Grey,**
) **Province of Ontario**
) **Clerk's Report to Grey County Compliance Audit**
) **Committee**
)
) **Section 88.34 of the *Municipal Elections Act, S.O.***
) **1996, c. 32**
)
)

Notice of Meeting: June 1, 2023

AFFIDAVIT


I, TREVOR STOOKE, of the City of Hamilton, in the Province of Ontario; MAKE OATH AND SAY:

1. I am a contributor listed in the Financial Statement of Paula Ann Hope ("Paula"), filed with the Clerk for the Town of the Blue Mountains on March 23, 2023. I have been provided with a copy of the Clerk's Report to the Grey County Compliance Audit Committee in relation to my contribution towards Paula's 2022 campaign for election as Councillor. I make this affidavit to assist with the meeting of the Audit Committee scheduled for June 1, 2023, and for no other improper purpose.
2. I am a designer with a speciality in creating powerful communications in all media, including websites, ads, postcards, and any other avenue that shares a message. I own a business in Hamilton called 'Agenda Marketing' which I have been leading for the last 18 years (since 2005). I am also an artist who enjoys creating beautiful pieces and who loves to help others, especially those who have helped me.
3. I have known Paula for many years, well over a decade. We have supported one another throughout the challenges of growing our respective businesses and I cherish my relationship with her very much. It is safe to say that we have always been there for one another.
4. When Paula decided to run for election in the Town of the Blue Mountains for a second term in 2022, I was delighted to personally support her campaign with any design or copy development work that she required. I was happy to help her as my long-time friend, not as a customer. My wife, Kara, and I decided to contribute towards her campaign in our personal capacity, not through our business.
5. As a result, I did not keep records of the projects that I prepared for her in the same manner as I might otherwise if dealing with a regular customer. This was also the case for the copy that my wife, Kara, developed for Paula's campaign. There are no formal invoices for the design and writing material that we created for Paula as I was not thinking of our work for her campaign as a traditional business exercise. The efforts my wife and I put forth were a personal contribution to Paula's campaign. We were pleased to help her.

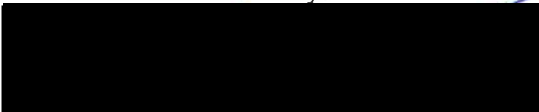


6. To assist with the value of that contribution, however, I estimate that both my wife and I spent a combined total of ten (10) hours towards Paula campaign in the form of marketing and related services. The breakdown of those services between myself and my wife is summarized below:
 - a. **Trevor** – Total of seven (7) hours, as follows: strategy (1 hour), website set-up (2 hours), website graphics and changes (2 hours) campaign material graphics (postcard and ad for *The Review*) (2 hours).
 - b. **Kara** – Total of three (3) hours – strategy and copy preparation for website, postcard, and ad for *The Review*.
7. At our regular rate of \$150.00 per hour, the market value of the services provided in the form of a contribution towards Paula's electoral campaign might therefore be quantified as follows, respectively:
 - a. Trevor - \$1,050.00 (7 hours x \$150.00)
 - b. Kara - \$450.00 (3 hours x \$150.00)
8. Upon advising Paula of the estimated valuation for our contribution to her campaign, I omitted to properly breakdown the amounts between myself and my wife, Kara. Without considering the contribution limits per individual, I simply combined the time and associated value between both myself and my wife. This information was then used to complete Paula's financial reporting, as was required.
9. In light of the notice received in the form of the Clerk's Report to the Audit Committee, I understand now that the services contributed ought to have been separated between myself and my wife. I believe this would have been in compliance with the rules relating to contribution limits. If I had the opportunity for a "re-do", or to re-state our contribution differently, I would have told Paula to file our contribution as per the above breakdown. I would have also provided our home address in Hamilton.
10. I stand ready and willing to cooperate with the Audit Committee to further clarify the contributions made by both myself and my wife towards Paula's electoral campaign, as needed.

I make this solemn Declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath.


TREVOR STOOKE

Sworn remotely by Trevor Stooke of Hamilton, Ontario before me at the Town of the Blue Mountains, in the County of Grey on this 29 day of MAY, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits


GAVIN H. LEITCH
LSO #65036J

