

Affidavit

AFFIDAVIT OF Duff Wilson Conacher

I, Duff Wilson Conacher of the City of Ottawa in the Province of Ontario

MAKE OATH AND SAY [or *AFFIRM*]:

1. I have personal knowledge of the facts as set out in this affidavit, because I have read news articles concerning the activities described in this affidavit.
2. I am filing this affidavit complaint to the City of Toronto Integrity Commissioner in my role as a member of the board of directors of Democracy Watch.
3. I have reasonable and probable grounds to believe that two members of Toronto City Council, Rob Ford and Doug Ford, may have contravened the following rules set out in the [Code of Conduct for Members of Council](#) (the “Code of Conduct”). The particulars are as follows:
 - (a) Section III of the Code of Conduct states that it applies to all members of council “(including the Mayor)”.
 - (b) Section V of the Code of Conduct – “Confidential Information” -- prohibits members from using “confidential information for personal or private gain, or for the gain of relatives or any person or corporation.”
 - (c) Section VIII of the Code of Conduct – “Improper Use of Influence” -- prohibits “the use of one’s status as a member of Council to improperly influence the decision of another person to the private advantage of oneself, or one’s parents, children or spouse, staff members, friends, or associates, business or otherwise.”
 - (d) Section IX of the Code of Conduct – “Business Relations” – states that “A member shall not refer a third party to a person, partnership, or corporation in exchange for payment or other personal benefit.”
 - (e) Section XIII of the Code of Conduct – “Conduct Respecting Lobbyists” – states that “members of Council should not engage knowingly in communications in respect of the list of subject matters contained in the definition of “Lobby”, as set out in Chapter 140, with a person who is not registered as required by Chapter 140.”

- (f) Evidence has been made public by the *Globe and Mail* (the “*Globe*”) that can be summarized as follows. As a [June 6, 2014 article in the *Globe*](#) states “From May 2011 to June 2011, Councillor Ford met three times with lobbyists from Donnelley Canada, who were seeking to review and takeover part of the city’s \$9-million in-house printing operation, according to the lobbyist registry and documents obtained through the Freedom of Information Act. Around the same time, one of those lobbyists, a Donnelley official named Barry Waddick, toured the Fords’ manufacturing facility and was arranging to refer Donnelley customers in need of labels to their family business [Deco Labels and Tags], according to a former Deco vice president, Leonard Rudner.”
- (g) A [June 4, 2014 *Globe* article](#) states that at Mayor Rob Ford’s request, “the city’s director of purchasing at the time, Lou Pagano, met with Donnelley representatives and the Ford brothers in the mayor’s office.” The meeting occurred on June 15, 2011.
- (h) Another June 4, 2014 *Globe* article states that “On June 30, [2011] five Donnelley executives, including Mr. Waddick, met with several city purchasing officials to continue the discussion about the municipal printing operations. Mr. Ford asked to be kept apprised of the discussions.”
- (i) According to the *Globe* articles, the City of Toronto employees involved in the meetings were not told that Donnelley was developing business relations with the Fords’ family business.
- (j) A separate situation is also documented by a [May 12, 2014 *Globe* article](#), which states that: “Mayor Rob Ford and his councillor brother Doug Ford helped one of the customers of their family business to lobby the city’s highest ranking bureaucrat for a special property tax break and repeatedly intervened with city staff without disclosing the company had a commercial relationship with the Ford family.”
- (k) The business in this situation is Apollo Health and Beauty Care (“Apollo”), for which the Ford family business has manufactured labels for several years, but according to City of Toronto employees cited in the May 12th *Globe* article, the Ford brothers never disclosed this business relationship to them.
- (l) According to the May 12th *Globe* article, representatives of Apollo met with city officials several times about several issues, with the intervention of Rob Ford and Doug Ford several times.
- (m) I have checked the City of Toronto lobbying registry, and I have found no registration for Apollo. It seems under clause B(3) of the definition of “Lobby” in subarticle 140-1 of the Toronto Municipal Code, [Chapter 140 Lobbying](#), that

Apollo should have been registered as a lobbyist for these communications, given that clause B(3) states that “to lobby” includes “[t]o communicate with a public office holder on. . .” “(3) Approving, approving with conditions, or denying an application for a service, grant, planning approval, permit or other licence or permission.” However, given the large loophole in the registration rules under subsection E of subarticle 140-5 in Chapter 140, it may be that Apollo was not required to register as a lobbyist for these communications.

- (n) I believe that the facts set out above in (f) to (l) raise serious questions about whether Rob Ford and Doug Ford have violated, through various actions, the rules in the Code of Conduct for Members of Council cited above in (b) to (e), especially given that the mayor and city councillors are expected to uphold high ethical standards as established by two statements of principle in the Preamble to the Code.
- (o) The Preamble to the Code of Conduct includes statements of principle that “underline” the Code of Conduct, including the following statements:
 - Members of Council should be committed to performing their functions with integrity and to avoiding the improper use of the influence of their office, and conflicts of interest, both apparent and real, and;
 - Members of Council are expected to perform their duties in office and arrange their private affairs in a manner that promotes public confidence and will bear close public scrutiny.

3. This affidavit is made for the purpose of requesting that this matter be reviewed and for no other purpose.

AFFIRMED before me at the)
City of Ottawa)
in the Province of Ontario on)
June , 2014)

_____))
[Signature of commissioner])
A Commissioner for taking affidavits, etc.)

_____))
[Signature of affiant]