

## **NORFOLK COUNTY INTEGRITY COMMISSIONER, DAVID G. BOGHOSIAN**

**Citation:** Complaint re: Simcoe BIA Board of Management Chair, Lyndsey Ross – DGB-Norfolk CountyICI-2024-02

**Date:** May 10, 2024

### **REPORT ON COMPLAINT**

#### **Introduction**

[1] This is a Report on the second of a series of Code of Conduct Complaints involving the same parties and overlapping factual circumstances, all made in close temporal proximity to one another. The parties involved in all four Complaints are the Simcoe BIA Board of Management, its Board members, the Chair, Brian Jones, and the Treasurer, Lyndsey Ross, on the one hand; and the Council of Norfolk County and Councillor Adam Veri, on the other hand.

[2] The first two Complaints, both initiated by Council for the County against Mr. Jones and Ms. Ross, respectively, were originally forwarded to the previous Integrity Commissioner (“IC”) on February 1, 2024. The previous IC had received a Response from Mr. Jones (which also included a response by him to the Complaint against Ms. Ross) but apparently not from Ms. Ross based on what the previous IC forwarded in terms of his file in this matter. He had not completed these investigations or issued a Report before I assumed the role of the County’s Integrity Commissioner effective April 3, 2024, so I took over the Inquiry into these. The third, undated Complaint, by Ms. Ross against Councillor Veri, was forwarded to me on April 15, 2024.

[3] The second Complaint, dealt with in this Report, was made by the Council of Norfolk County pursuant to a Resolution passed by Council in Committee at its December 12, 2023 meeting, the minutes of which were approved by Council at its December 19, 2023 Council meeting. The Complaint is against the Treasurer and Member of the Simcoe BIA Board of Management, Lyndsey Ross. The alleged violation is that an email she sent to the Executive Director of the Norfolk County Fair breached section 8.1 of Norfolk County’s Code of Conduct for Members of Council and Local Boards (“the COC”).

#### **Complaint**

[4] The Complaint alleges that Ms. Ross violated the Code of Conduct by sending an email to the General Manager of the Norfolk County Fair (“NCF”), Angela Hogeveen, dated September 20, 2023 in which she allegedly represented that she was writing in her capacity as, inter alia, a “representative” of the Downtown Simcoe BIA.

[5] The contents of the September 30<sup>th</sup> email can be summarized as follows:

- Ms. Ross identifies herself as the owner of a business that was a “blue ribbon sponsor” and a “representative” of the Downtown Simcoe BIA, and that she had attended the Partners in Progress event the evening before;
- She proceeds to outline, in a 33-line paragraph, her family, business and professional history and accomplishments, including involvement on the Downtown Simcoe BIA Board of Management, as well as very sensitive aspects of her current and recent past personal life;
- She then proceeds to say that she was “disappointed” and “disgusted” with the Partners in Progress event and, in what can quite comfortably be labelled as “over the top” language, criticizes the lack of interaction with her, a sponsor, by NCF organizers, NCF Board members and by Ms. Hogeveen; the lack of paper (as opposed to digital) tickets; the lack of social media recognition of NCF sponsors; the lack of an up-to-date sponsorship list on NCF’s website; the lack of provision of ribbons to sponsors as in prior years; the inclusion of alcohol in the swag bags given out to attendees (which “appalled” her); and the poor quality and choice of food served at the event.
- After once again expressing her “extreme disappointment” about the event, she demands to be provided with physical tickets and that they be ready for her to pick up when she attended NCF’s offices two days later.

### **Response of Lyndsey Ross**

[6] Ms. Ross provided a Response in the form of a letter to me sent by email on April 30, 2024.<sup>1</sup> The Response was almost four, single spaced pages. She advised that it had been drafted it with the input of her legal counsel at Lerner LLP in London.

[7] The Response begins by acknowledging that her email of September 22 [sic], 2023 “used some inappropriate and unprofessional language and I take full responsibility for that.” She then asserts “I do not believe this single email was so offensive that it engaged all of the many Code of Conduct provisions invoked by Norfolk Council.”<sup>2</sup>

[8] The next lengthy paragraph, spanning nearly a page, provide her family’s background in the community, her business and professional background and her work on Downtown Simcoe BIA.

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<sup>1</sup> The Response is dated March 26, 2024, the due date agreed to by the previous Integrity Commissioner, however, he wrote to Ms. Ross by email on March 21, 2024 advising her to hold off submitting her Response. I suspect this was because his term as IC was nearing the end and he realized he could not complete his investigation before that happened.

<sup>2</sup> It is unfortunate that Council combined the complaints against Mr. Jones and Ms. Ross together and cited breach of the same Code of Conduct provisions against both, and it is unfortunate that the former IC did not clarify the actual COC provisions that applied to her when he requested her Response.

[9] With respect to the subject email, which she refers to as the “Feedback Email”, she states: “I recognize that as a member of the BIA, all of my communication with the public falls under the Code of Conduct and should remain professional at all times. This applies even to emails like this one when I am writing in my personal capacity as a business owner. Again, I accept that this email contained some inappropriate language that I should not have used.” She then goes on to state: “The long preamble of my email made it very clear that I was writing in my personal capacity” (ignoring the fact that the very first sentence of the email introduced her as a “representative” of the Downtown Simcoe BIA).

[10] She also expresses disappointment in Ms. Hogeveen for reporting her email to the County instead of speaking with her about it and also suggests the Complaint against her was part of broader tension between Council and the Councillor-members of the BIA Board, on the one hand, and the BIA on the other, over funding issues.

### **Applicable Legislation and By-laws**

#### **County By-Law 2018-34 - Code of Conduct for Members of Council and Local Boards of the Corporation of Norfolk County**

[11] The following is the section of the COC alleged to have been breached:

#### **8. INTERACTION WITH THE PUBLIC, OTHER MEMBERS & COUNTY STAFF**

8.1 Members have a duty to treat members of the public, each other and staff with respect and dignity and without abuse, bullying or intimidation;

### **Findings**

[12] Section 8.1 of the Code of Conduct requires that “Members ...treat members of the public... with respect and dignity and without abuse, bullying or intimidation.”

[13] I find that the tenor and content of Ms. Ross’ September 20, 2023 email to Ms. Hogeveen demonstrated a lack of respect, and was also abusive and intimidating, and that at the time she wrote it, she was a Member of the Downtown Simcoe BIA Board of Management. I therefore prima facie find that the email constituted a violation of s. 8.1 of the Code.

[14] Notwithstanding this, I must nevertheless determine if that is sufficient to render her action misconduct under the Code. It cannot be the case that every interaction between a Member covered by the Code of Conduct and some other member of the public raises a Code of Conduct concern. For example, an argument between a Member and a neighbor over a private boundary dispute is of such a private nature as to not implicate the Member as a Member.

[15] I find that Ms. Ross did not send the email in her capacity as a Simcoe BIA Board Member. Although she refers to herself in the email as having attended the Partners in Progress event as a “representative” of the Simcoe BIA and later lists her involvement with the Simcoe BIA Board of Management, she never holds herself out as a BIA Board Member or threatens Ms. Hogeveen with

any adverse consequences to be imposed by the Board on the NCF as a result of her complaints. I find that the email did not sufficiently communicate her role with the BIA Board to be able to say that she was purporting to write it in her capacity as a BIA Board member.

[16] That does not conclude the matter, however. As leaders in the community, decorum requires Members to be held to a higher standard of behaviour and conduct, and accordingly, their behaviour should be exemplary. The fact is that in the very opening sentence of the email, Ms. Ross expressly refers to herself as a “representative” of the Downtown Simcoe BIA to the very event that she proceeds to complain bitterly about. This connotes a level of authority within the organization that creates a sufficient nexus between her role as a Member of the BIA Board and the email. By holding herself out in this way, Ms. Ross’ email was a reflection on the BIA and its Board. The email reflected a lack of decorum and, in my opinion, fell below the standard of behavior one expects to see in a leader in the community.

[17] As Ms. Ross has herself acknowledged, “I recognize that as a member of the BIA, all of my communication with the public falls under the Code of Conduct and should remain professional at all times. This applies even to emails like this one when I am writing in my personal capacity as a business owner. Again, I accept that this email contained some inappropriate language that I should not have used.”

[18] I therefore find that Ms. Ross breached s. 8.1 of the Code.

#### **Appropriate Penalty**

[19] The email was sent to only one person, the main object of Ms. Ross’ wrath, and was not otherwise distributed, certainly not to the general public as would have been the case if it had been posted on a social media site or written as a letter to the editor of a local media outlet. In addition, Ms. Ross is a fairly recent appointee to the BIA Board (2001), is relatively young and inexperienced with public service, and has not acted out before in a similar manner while holding a public appointment. In all of the circumstances, I find that a verbal reprimand for her actions is an appropriate penalty.

#### **Conclusions Regarding the Complaint**

[20] I recommend that Council reprimand Ms. Ross for drafting and sending the September 20, 2023 email to Ms. Hogeveen.

[21] This concludes my investigation.

Respectfully Submitted,



David G. Boghosian,  
Integrity Commissioner,  
Norfolk County