

**Toronto
Port
Authority**



**Administration
Portuaire
de Toronto**

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November 16th, 2009

Mr. Paul Szabo, M.P.
Member of Parliament
Chair of the House of Commons Ethics Committee
House of Commons
Ottawa, ON K1A 0A6

Dear Mr. Szabo:

Please find enclosed a letter sent last week by the Toronto Port Authority (“TPA”) to the Auditor General of Canada. In this letter, the TPA requests that the Office of the Auditor General agree to perform an audit of the TPA in order to address allegations about travel and hospitality expenses of current and former TPA staff, among other issues. We welcome the opportunity to “clear the air” in this manner.

In the event that the Auditor General’s mandate continues to prevent her from accepting the invitation of the Board of Directors to audit the TPA, the TPA has asked that the Auditor General agree to receive and review a special audit report to be conducted by a third-party accounting firm (other than the existing TPA Auditor Deloitte LLP).

We are writing you in this regard so you are aware that the TPA has nothing to hide, and is open to an audit by the Auditor General or a second independent third-party accounting firm regarding the very concerns raised by yourself and others over the recent weeks. As per our recently released 2008 financial statements, the TPA received “a clean report” from our existing independent auditor in June 2009.

I would also like to advise that the former President and CEO’s expenses for 2007 and 2008 were released in February 2009 as a result of an Order Paper request, and are posted on the TPA website. This release included all hospitality expenses for that period, including any charges incurred at our tenant, the Harbour 60 restaurant. In addition, in early September, our Board passed a motion requiring that their own expenses be released immediately and also posted on the TPA website, as well as the expenses of the TPA’s President & CEO going forward. The Board’s and CEO’s expenses are now being posted quarterly, in similar form to federal government departments. This voluntary step was undertaken to increase transparency and accountability. I am not aware of any similar agency in the country that is making this breadth of expenses public in the absence of a specific Access to Information Request.

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As I understand it, your concerns involve four broad categories:

1. Hospitality and Travel expenses of current and former TPA management. Were these expenses, TPA-related, were they approved through the budget process, were they incurred in accordance with TPA policies, were they approved according to TPA policies and good governance?
2. The existence of two sets of TPA Board minutes for certain meetings in 2008. Why is this the case? Why are there differences between the two sets?
3. Whether or not TPA facilities are being used for “partisan” purposes by TPA staff or board members?
4. That the TPA “costs taxpayers \$10 million a year”, as per your concerns as they were reflected in the November 9, 2009 article published in The Toronto Sun newspaper.

If I may, let me take the opportunity to address each of these points, and what the TPA (or others) are doing to address them:

1. I can assure you, as Chief Financial Officer of the TPA and a Certified General Accountant in good standing, that none of our former CEO’s hospitality expenses involved activities other than those directly related to the business and affairs of the TPA. None of these expenses involved what anyone might characterize as “partisan activities”. This analysis will have the opportunity to be validated / refuted by the steps we’ve undertaken as per our recent letter to the Auditor General, whether by her or a second accounting firm.
 - a. As you may know, we publicly released the 2008 TPA Budget as well as the December 10, 2007 Board Agenda and the Board Minutes from that meeting (Chaired by Michele McCarthy). This information demonstrated that Deloitte LLP was correct to advise the Board in writing on June 23, 2009 that these travel and hospitality expenses were “pre-approved” through the Board’s 2008 Budget process; however, this analysis will also have the opportunity to be validated / refuted by the steps we’ve undertaken.
 - b. As you may also know, Deloitte LLP also reported to the TPA Board in writing on June 23, 2009 that these expenses followed the TPA Purchasing Policy; this analysis will also have the opportunity to be validated / refuted by the steps we’ve undertaken.
2. Although there are two sets of Board minutes covering certain meetings in 2008, as was reported in writing by Deloitte on June 23, 2009, these difference “had no bearing” on the TPA’s 2008 financial statements.
 - a. Deloitte was provided with both documents during their 2008 audit, and both remain on file with the TPA for posterity.
 - b. This situation arose when the two Board “camps” could not agree on how certain events should be recorded, and whenever the minutes came for approval during calendar 2008, the votes were always tied 3-3; as such, no minutes could ever be passed.

- c. In late 2008, the City of Toronto made their appointment to the Board (the City has one position and had historically refused to nominate a Director). This new Board appointee (David Gurin) broke the tie regarding the Board minutes and voted to support the version proffered by Mr. Henley, although Mr. Gurin had not been present at any of the meetings in question and had no first hand knowledge into the characterization of topics in dispute.
 - d. As an observer of this process, I can tell you that there are differences in the two sets of minutes, and it was my understanding at the time that the two Board groups could not agree on i) the depiction of certain events, ii) the phrases used by certain directors, iii) the relevance and importance of certain things that were said by Directors and iv) the form, style and length of the Board minutes in general.
 - e. The minutes passed in December 2008 reflect the views and recollections of former Director Chris Henley and his “block” of Directors, with Mr. Gurin casting the tie-breaking vote. The second set of minutes reflect the “other” sides’ view of certain matters and were passed in 2009 once the majority on the Board changed. As such, each “side” approved a set of Board minutes that best reflected their view of what of relevance should be recorded in the formal minutes.
 - f. As you know, traditional Board minutes are not meant to be a transcript of the discussions held; the point of minutes is to reflect the decisions taken by a Board. In any event, however, this analysis will also have the opportunity to be validated / refuted by the steps we’ve undertaken.
3. It is my understanding that you have asked both the Privacy Commissioner and the Ethics Commissioner to review the circumstances surrounding a fundraising email sent by an Assistant on the staff of the TPA. As you may know, I have reinforced with our employees the terms of the TPA’s Information Technology Policy.
 - a. Nevertheless, one or both of these outside agencies would be expected to review this matter more closely.
 - b. In the interim, I can also assure you that no TPA Board members have ever requested access to the TPA’s Local Area Networks, and none use our internet capabilities for electronic mail.¹
 - c. In addition, our current Chairman has never used the business office that has been historically provided to the Chairman of the TPA. The only meetings he, or any other Directors, have attended on TPA premises have involved formal TPA business.
 4. As per the “Clarification and Apology” published in the November 12, 2009 edition of the Toronto Sun, the TPA does not “cost taxpayers \$10 million” a year. In fact, the TPA has been profitable in 2008 and 2009 and pays a substantial annual royalty to the Federal government as per the *Canada Marine Act*.

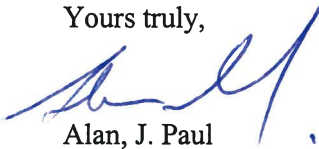
¹ Ms. Michele McCarthy had the use of a Toronto Port Authority e-mail account during her time as TPA Chair.

It is my sincere hope that you take comfort from the fact that the TPA has added its voice to those asking for a review of the TPA by the Auditor General. In the alternative, should she decline our invitation we look forward to providing you and other stakeholders with the results of an independent third party, arms length audit as soon as it can be completed. As per our recent letter to the Auditor General, this audit will be as broad as is required to address the concerns raised with the Auditor General by the former TPA Board members, as well as anything that has arisen subsequent to that time.

I can also inform you that, on a voluntary basis, the TPA is looking into adopting the current expense policies of the Department of Transport as they relate to internal functions and staff entertainment, including individual maximum expenditures per person, no alcohol, etc.

I shall continue to keep you apprised as events warrant. Thank you, in advance, for providing me the opportunity to update you on these matters.

Yours truly,

A handwritten signature in blue ink, appearing to read 'Alan J. Paul', is written over the typed name.

Alan, J. Paul
Acting President & CEO

c: Mr. Mark McQueen
TPA Chairman

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November 11, 2009

Ms. Sheila Fraser
Auditor General of Canada
240 Sparks Street
Ottawa, Ontario
K1A 0G6

Dear Ms. Fraser:

Re: Toronto Port Authority

I write to you today to follow-up on a letter I wrote to you on August 21, 2009, regarding the Toronto Port Authority (the "TPA") and certain complaints that had been raised with you by a disgruntled group of TPA Directors in correspondence dated June 10, 2009 and June 26, 2009. As you may recall, the core of the complaints by the disgruntled group surrounded expenses incurred by current and former TPA staff, among other issues. In that letter, I provided a copy of a "reporting letter" that TPA auditor Deloitte LLP addressed to the TPA Board of Directors on June 23, 2009, which reported that: "The [management] trips had been pre-approved through the Budget process and the expense incurred is correctly recorded in the records of the TPA." In that same letter, Deloitte LLP also advised the following regarding TPA management hospitality expenses: "We observe that the process of payment of these invoices followed during the year was in accordance with the hospitality policy in place during that time."

In your reply correspondence of September 8, 2009, you advised that you did not have a "mandate" to audit the TPA. This was unfortunate news. As the TPA has nothing to hide and has done its best to be as open and transparent as possible, your inability to review these accusations has given TPA detractors the luxury of claiming that there remain unanswered questions regarding the financial, operating and governing affairs of the TPA.

Over the past few weeks, since we received your letter, the disgruntled group (two of which are no longer TPA Directors as a result of the expiry of their three-year terms) has continued its public attacks against the former TPA Chief Executive Officer and the agency as a whole. This has attracted substantial attention, including questions in the House of Commons repeating requests that you conduct an audit of the TPA.

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On behalf of the TPA Board of Directors, I respectfully ask that you accept our invitation to audit the TPA at the earliest opportunity. We welcome external reviews, as was most recently evidenced by the clean audit opinion provided by independent auditor Deloitte LLP's review of the TPA 2008 financial statements. Notwithstanding this clean independent corporate audit, as stewards of public assets, the TPA Board of Directors believes it is in the public interest that the Auditor General provide a second independent, objective, fact-based review that all stakeholders may rely upon.

If you are unable to accept this invitation due to your Parliamentary mandate, we would ask that you agree to receive and review a special audit that we will have conducted by an independent, arms-length third party accounting firm (other than the existing TPA auditor Deloitte LLP). The mandate of this audit review would be as broad as is necessary for this independent accounting firm to address all of the accusations raised in the two letters you received from the disgruntled Directors, along with any other matters that have been raised subsequently.

Thank you, in advance, for your consideration of these requests.

Respectfully,

TORONTO PORT AUTHORITY



Mark McQueen
Chairman