



**CITY OF GREATER SUDBURY – TRANSIT KIOSK
CONTRACT
SUMMARY REPORT**



INTRODUCTION

Investigative Solutions Network, Inc. (ISN) is a full-service private investigation and training organization located in Pickering, Ontario. Co-CEO's Dave Perry and Ron Wretham lead ISN; both highly respected and decorated former Toronto Police detectives. Steve Majoran is a Senior Private Investigator with Investigative Solutions Network Inc. and has an extensive background in the investigation of Fraud and Forgery cases for the Toronto Police Service as well as private sector clients.

In September 2015, Investigative Solutions Network Inc. was hired by the City of Greater Sudbury (CGS) to conduct an investigation. Ron Wretham and Steve Majoran subsequently travelled to Sudbury, Ontario and were provided with information regarding a contract the CGS had with an individual to operate a transit kiosk and sell transit tickets. Based on information received, Ron Wretham and Steve Majoran developed an investigative strategy and began gathering the information necessary to conduct an investigation.

SCOPE OF WORK

In consultation with Mayor Brian Bigger and (then) CEO Bob Johnston, it was agreed that ISN would focus on the following:

1. Determine if any City of Greater Sudbury employee was significantly negligent in the managing of the Transit Kiosk account.
2. Determine if any CGS employee or council member may have committed a conflict of interest, breach of Ontario Statute or breach of a Federal Statute relating to their relationship with Tony Sharma and/or his companies.
3. Determine if a Forensic Audit was conducted relating to the Transit Kiosk Ticket matter. If it is determined that a Forensic Audit was conducted, the following will be investigated:
 - Who ordered the audit
 - Who conducted the audit
 - Who did the auditor report to within CGS
 - Who from CGS received the completed audit and,
 - Retrieve a copy of the final forensic audit.
4. Determine whether or not the advice of outside counsel was ever sought in the decision **not** to proceed civilly against Tony Sharma.



SUMMARY - CITY OF GREATER SUDBURY TRANSIT KIOSK CONTRACT

As a result of a Request for Proposal (RFP) process, the City of Greater Sudbury entered into a legal agreement with 1211250 Ontario Inc., operated as Zio's Tuck Shop, on June 1st, 2004. 1211250 Ontario Inc. and Zio's Tuck Shop were owned and operated by Tony Sharma. The contract specified that 1211250 Ontario Inc. (Sharma) would "operate a ticket counter and information booth kiosk at the Sudbury Transit Centre Building".

1211250 was paid an annual fee to operate the Transit Kiosk for the city and transit tickets were provided by the City on a consignment basis. Reconciliation was to be made to the City by Sharma on the 25th of each month prior to receiving next month's tickets.

Sharma did not follow the terms of the contract, nor did the City enforce them and this formed the basis of the relationship. Sharma habitually fell behind on his payments to the City and this cycle continued for many years. At no time was the strict wording of the contract ever enforced.

TIMELINE OF EVENTS

On or about September 4th, 2009 – The Transit Kiosk did not open for business. As of that day, 1211250 Ontario Inc. owed approximately \$800,000.00 in outstanding revenues to the City. Sharma initially cooperated with the City and approximately \$300,000.00 in assets was recovered. Shortly thereafter, Sharma ceased cooperating; leaving the City with a shortfall of \$579,030.11. The City initiated legal action and was awarded judgment against 1211250 Ontario Inc. in the amount of \$579,030.11 as well as \$1,211.00 in costs. However, no funds were ever collected, as there were no assets in the corporation.

January 2010 - The City retained the law firm of Desmarais Keenan LLP to review the details to ascertain if civil action could be taken against Sharma personally for the missing funds. Desmarais Keenan LLP provided the City with a legal opinion, recommending that the City proceed against Sharma's corporation only and not him personally, at that point.

Early 2011 – The City asked the Chief of the Greater Sudbury Police Service to investigate. The assigned GSPS investigator felt there was no evidence of criminality and that it was a civil matter.

August 2011 – City Council voted in favour of pursuing criminal charges against Sharma. The City Solicitor met with the Chief of Police who advised they would need solid evidence to proceed.



August 9, 2011 – The City Solicitor hired the accounting firm of Collins Barrow to review the evidence relative to a criminal charge. Collins Barrow replied to the City within days with a three page “Preliminary Review”. The review included some potential outcomes of a full forensic investigation, the approximate cost of the investigation and the documents that would be required from the City in order to proceed.

In a closed session with City Council, \$30,000 - \$50,000 was quickly approved for Collins Barrow to conduct a forensic audit. The audit was commenced, however it was barely underway when they were directed to stop the process.

September 2011 – Then GSPS Chief Frank Elsner requested that the OPP investigate the matter. The OPP Anti-Rackets branch took carriage of the investigation and eventually concluded that the incident did not support criminal charges.

April 2012 – At the request of council, HR Capacity Management Consulting submitted an Accountability Review to the City relative to the transit kiosk matter. The focus of the review was CGS employee activities with regards to 1211250 Ontario Inc.

June 2012 – As a result of the Accountability Review, several employees were disciplined relative to the kiosk matter.

October 2014 – Brian Bigger is elected Mayor of CGS. Following up on his election promise to release the Forensic Audit to the public, Mayor Bigger reached out to Collins Barrow to obtain a copy of the audit. He was subsequently advised that a Forensic Audit was never completed.

June 25, 2015 – In a press release, Mayor Bigger called on the interim CAO Bob Johnson, to summon an independent review of the transit kiosk matter.

September 2015 – Investigative Solutions Network Inc. was hired by the CGS to conduct the investigation.



INVESTIGATIVE INTERVIEWS

In accordance with the scope of the investigation, the ISN investigators conducted lengthy and detailed interviews. The following individuals were interviewed;

Richard Schaak, Chartered Accountant, Collins Barrows

Bob Johnston, Former Interim CAO, CGS

Kevin Fowke, Interim CAO, Director of Human Resources, CGS

Brian Bigger, Mayor, CGS

Roger Sauve, Director of Transit, CGS

Lorella Hayes, General Manager of Assets&Finance/CFO, CGS

Allan Lekun, Deputy Chief of Police, GSPS

Robert Gauthier, Manager of Transit, CGS

Jamie Canapini, City Solicitor, CGS

Terra Glabb, Chief Executive Officer, Greater Sudbury Airport

Robert Tyrer, Airport Operations Manager, Greater Sudbury Airport

Paddy Buchanan, (Retired) Manager, CGS

Dan Zembryzcki, Constable, GSPS

Caroline Hallsworth, City Representative, CGS

Doug Nadorozny, (Former) CAO, CGS

Bridget Jokitalo, Lawyer, McDonald, Charette and Associates

Eric Labelle, Assistant Solicitor, CGS

As a result of these interviews, the investigators were able to elicit information that proved to be extremely valuable in terms of satisfying the investigative objectives and answering the questions as stated in the scope of work.



SUMMARY OF FINDINGS

The interviews determined [REDACTED] extremely naïve regarding the terms of the contract and ill-equipped to manage the situation. [REDACTED] did not possess the skills necessary, nor receive the appropriate training in order to be effective [REDACTED]. This became evident during the interviews [REDACTED]. Mr. Nadorozny described this situation as a “management failure” and ISN agrees with this assessment.

There was no evidence of conspiracy or conflict of interest uncovered between any CGS employee and Tony Sharma regarding the contract with 1211250 Ontario Inc. While the management failures were numerous, there is no evidence to support a finding of collusion or willful negligence. These failures are the result of a lack of knowledge and poor management skills which are training rather than disciplinary issues and should be treated as such going forward.

A full Forensic Audit was never completed. Collins Barrow delivered a three page Preliminary Review that suggested there were “many unusual transactions that could be of forensic interest upon further investigation”. In October 2011 Richard Schaak met with members of the Ontario Provincial Police where he passed on his findings to investigators.

Bridget Jokitalo was outside counsel and employed by Desmarais Keenan Lawyers. She was consulted on and provided advice to the City’s Legal Department regarding the Transit Kiosk matter. She did state that she advised against pursuing Mr. Sharma personally as there were insufficient grounds to do so. However, she did inform the investigators during her interview that she was not supplied a copy of the Preliminary Review from Collins Barrow. She further stated that had she been given this document back then, she would have looked into pursuing Sharma further.

Over the years, the Greater Sudbury Police Service, the Ontario Provincial Police as well as City Solicitors and outside counsel, has reviewed this matter. The judgment of \$579,030.11 remains outstanding, as 1211250 Ontario Inc. does not have the assets to satisfy the judgment. As it is required that civil proceedings be commenced within two years of the date on which the claim is discovered, initiating a new civil action at this juncture is not possible.

As determined by the GSPS and the OPP, criminal charges at this point are also not warranted given the fact that no new evidence has surfaced which would alter the course of the initial investigation. The ISN investigators agree with the findings of the Greater Sudbury Police Service as well as those of the OPP Anti-Rackets branch. Additionally, there was no evidence uncovered during this investigation, which would indicate criminality on the part of any CGS employee.

It is the opinion of ISN that this situation was allowed to develop through a combination of incompetence, poor decision-making and lack of proper internal processes. It is apparent that the poor oversight and lack of controls created an environment that was ripe for poor business practices to develop and flourish. Therefore, the following recommendations are respectfully submitted to the City of Greater Sudbury:



Continue to follow the Auditor General's recommendations on implementing quality contract drafting, management and oversight.

Monitor and enforce current internal processes within CGS departments in regards to contract management.

Ensure proper developmental training is implemented in all aspects of management roles.