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**Green Party of Canada
Workplace Investigation Report
Executive Summary**

Prepared for: The Green Party of Canada

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EXECUTIVE SUMMARY

Torys LLP was retained by the Green Party of Canada (“GPC”) on January 29, 2018 to investigate allegations of bullying and workplace harassment made by three former employees of the GPC (Rob Rainer, Diana Nunes and Vanessa Brustolin) to the Toronto Star and The Hill Times. Torys’ mandate was limited to investigating these three individuals’ allegations of bullying and workplace harassment.

We carried out our investigation independently of the GPC. We interviewed two of the three complainants (Ms. Brustolin declined to meet with us). We interviewed Ms. May in order to provide her with an opportunity to respond to the allegations made against her and to present her side of the story. We spoke with a number of other individuals whom we believed could provide additional context. We also requested, received and reviewed extensive documentation, including the complainants’ human resource files and contemporaneous email correspondence.

Once we gathered the relevant evidence, we considered it in context and in light of the relevant legal standard for finding workplace harassment under Ontario’s *Occupational Health and Safety Act*. That standard requires showing that a person engaged “in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome.”

For the purposes of our analysis, we accepted the complainants’ allegations as true. We also accept that the three complainants feel strongly that they were mistreated. However, in our opinion, their allegations, if accepted as true, do not rise to the level of workplace harassment under the *Occupational Health and Safety Act*.

Rob Rainer. We interviewed Mr. Rainer. In his interview, Mr. Rainer made nine allegations of workplace harassment against Ms. May. Seven of those involve allegations of harassment against him. We carefully considered those allegations in the context of the tense relationship between Mr. Rainer and Ms. May. It is clear to us that Mr. Rainer and Ms. May do not like each other, and did not work well together. Ms. May attributes that largely to Mr. Rainer’s job performance. Mr. Rainer says it was because he was willing to “stand up to” Ms. May.

Regardless of the causes of the tension between Ms. May and Mr. Rainer, in our opinion, none of the seven instances where Mr. Rainer says he was harassed by Ms. May constituted workplace harassment. Instead, they appear to have been tense interactions between coworkers who did not get along, or situations where Mr. Rainer appears to have taken questions about his job performance personally. Because he saw no fault in his performance, he concluded that he was subject to an unjustified personal attack. People can and do have different expectations and views with respect to a person’s job performance, but criticisms directed at a person’s job performance do not meet the legal standard that is the focus of our investigation.

Mr. Rainer’s complaints about Ms. May’s conduct towards others fall outside of our mandate. Nonetheless, we considered them carefully, and determined that none of them constitute “a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome.” In the first incident, Ms. May apologized moments after making the remark complained of, and then apologized again over email. The second incident appears to have been a well-founded criticism of an individual’s job performance. Each of these incidents is discussed in detail in our report below.

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Vanessa Brustolin. Ms. Brustolin declined to meet with us to be interviewed. Our conclusions regarding her allegations are based on our review of relevant documents, including an email from her, and our interviews with others. Ms. Brustolin worked for the GPC for three months. Her interactions with Ms. May during that period were minimal. She cites two interactions where she says that Ms. May harassed her. Ms. May remembered one of the incidents, though her recollection differed from Ms. Brustolin's. We considered both incidents carefully. In our view, neither constitutes "a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome." Ms. Brustolin was not made a permanent employee at the end of her probationary period at the GPC, and our review of documents from the period showed that there was tension between her and her direct supervisor (who was not Ms. May).

Diana Nunes. We interviewed Ms. Nunes. She indicated that she did not have specific allegations of harassment against Ms. May. Instead, she had concerns about Ms. May's treatment of others and more general concerns about the administration of the GPC. Both of these issues fall outside of our mandate. Nonetheless, we considered Ms. Nunes' specific complaints about Ms. May's treatment of others. In our opinion, even if we accept them as accurate, none of them constitute workplace harassment.¹

We therefore conclude that the allegations by the three complainants do not constitute workplace harassment.

As set out above, our mandate was limited to investigating allegations of workplace harassment against Ms. May by the three named individuals. A number of interviewees – including complainants and third parties – appeared to believe that our mandate was broader. They assumed that it included looking into disputes that had arisen at the GPC during the relevant period, including about the GPC's financial arrangements, governance and organizational structure. While information about these disputes provided context that helped us understand the relevant relationships, we were not asked to, and did not, investigate these matters. We therefore refer to information about these disputes only as necessary and to the extent that it provides context for our findings.

CONFIDENTIALITY

Our investigation required us to gather and consider sensitive personal information about a number of individuals, including, but not limited to, the complainants. Some of that information is set out in this report. The report also contains references to legal advice protected by solicitor-client privilege. Because this report contains personal information about identifiable individuals and past legal advice provided to the GPC (not by Torys), we **strongly** recommend that the GPC maintain this report in strict confidence. Even though the complainants chose to air their complaints in the press, in our view, it would be inappropriate to make this report public. However, we believe that the GPC can make public our conclusion that the complaints investigated did not constitute workplace harassment without disclosing this personal information.

¹ We also believe it is important to note that Ms. Nunes advised she only agreed to speak with the Toronto Star "off the record," and made it clear that she was not harassed by Ms. May. Ms. Nunes stated that despite her wishes, the Toronto Star published her name.