

June 24, 2019

EBC File: 15110-25/2018/013

David Goldsmith
Financial Agent
British Columbia Liberal Party
Via email C/O Emile Scheffel: emile.scheffel@bcliberals.com

Dear David Goldsmith:

This letter comprises the Determination under Part 4 of the Application of Administrative Policies Policy 12.1, for investigation REF-2018-013 related to s. 187 (1.01) of the *Election Act* which states that “A financial agent or an individual authorized under subsection (1) must not accept a political contribution from a person other than an eligible individual.”

The investigation report and recommendations for penalty calculations were provided to you on June 10, 2019. At that time, you were given an Opportunity to be Heard in accordance with Elections BC’s Application of Administrative Policies Policy. On June 12, 2019, the British Columbia Liberal Party waived the Opportunity to Be Heard and accepted the findings of the investigation on your behalf.

A summary of those findings are as follows:

“On 2018-03-28 at 1645h Sullivan Mechanical Ltd. made a contribution to the BC Liberal Party of \$500. The contribution was made through the BC Liberal Party’s website www.bcliberals.com. Sullivan Mechanical Ltd. used a corporate credit card under the name of Sullivan Mechanical Ltd. to make the contribution. The billing address for the contribution also listed the name as Sullivan Mechanical Ltd. and provided a Prince Rupert post office box rather than a street address. On 2018-07-27 [The] BC Liberal Party completed the interim financial report (F-P(I)), which was subsequently signed by the party’s financial agent David Goldsmith and sent to Elections BC. The F-P(I) report included a \$500 contribution from Sullivan Mechanical [Ltd.], dated 2018-03-31.” Sullivan Mechanical Ltd. is not an eligible individual who may make a political contribution under the *Election Act* and accepting the contribution was a contravention of s. 187(1.01) of the *Election Act*.

Elections BC uses a set of baselines on an incremental scale to recognize aggravated penalties for repeated like contraventions and to ensure adjudication decisions are reasonably consistent, predictable, and objective. See below for such baselines:

First Instance	\$ 250 (25% of the maximum penalty)
Second Instance	\$ 500 (50% of the maximum penalty)
Third and subsequent Instance	\$ 750 (75% of the maximum penalty)
Maximum Penalty	\$1000 (Double the value of the contribution)

**These are guidelines only. The decision-maker may deviate when they determine it is appropriate to do so based on the individual circumstances of each case.*

The guidelines suggest a starting calculation of \$250 for a contravention in the first instance. As you have accepted the findings of the investigation, I find the proposed starting point to be appropriate. I also accept the investigator's recommendations as set out below:

a. The egregiousness of the behaviour:

"While the contribution amount was not near the top of the allowable limit, and accepting the contravention appears to have been inadvertent...the error that allowed the prohibited contribution to be accepted was caused because the BC Liberal Party's financial agent did not have adequate safeguards in place to prevent it... I recommend increasing the penalty for this factor by 10% of the maximum penalty, or \$100."

b. Repetition of the behaviour:

"There is no evidence to suggest that this is a pattern of behavior with the British Columbia Liberal Party... I recommend reducing the penalty for this factor by 5% of the maximum penalty, or \$50."

c. Cooperation of the subject:

"The BC Liberal Party has been cooperative with [the] investigation. They provided fast and reasonable responses to [Elections BC's] questions. I recommend reducing the penalty for this factor by 5% of the maximum penalty, or \$50."

d. Preventative measures:

"...the BC Liberal Party ha[s] taken additional steps to prevent future non-compliance. The BC Liberal[s] have added functions to their weekly contribution report that identifies corporate profiles [that] have made contributions. In addition, they [have] added a filter to the donation page to restrict donor names with words such as limited, Ltd, Corp, and Inc. In a follow up to the investigation, the BC Liberal Party confirmed that these changes have been effective... I recommend reducing the penalty for this factor by 5% of the maximum penalty, or \$50."

e. Previous Monetary Penalties issued under similar circumstances:

"There have not been previous monetary penalties under similar circumstances to consider."

In agreement with the investigator, I assess a total penalty of \$200 for failing to comply with s. 187 (1.01) of the *Election Act*. A summary table is provided below for reference:

Starting amount: \$250	
Influencing factors	Penalty adjustment
a. Egregiousness of the behaviour	+\$100
b. Repetition of the behaviour	-\$50
c. Cooperation of the Subject	-\$50
d. Preventative measures	-\$50
e. Previous Monetary Penalties issued under similar circumstances	Not applicable
Total recommended penalty:	\$200

In accordance with Elections BC's Application of Administrative Monetary Penalties Policy, the monetary penalty will be applied, and this determination published (according to Part 7) 38 days after the date you are served this determination. If you seek court relief under the Act, publication will be suspended until the completion of that process.

You have a further 30 days following publication and application of the monetary penalties to either pay the penalty or enter into a payment agreement with Elections BC to pay the penalty over the period of one year. Payment(s) can be made by cheque to the Minister of Finance, C/O Elections BC at the address below.

Mailing Address:

PO Box 9275 Stn Prov Govt
Victoria, BC
V8W 9J6

Physical Location:

Suite 100 – 1112 Fort Street
Victoria, BC
250-387-5305

Sincerely,



Amie Foster, MPA, FIP
Director Corporate Planning & Strategic Initiatives