

November 28, 2019

EBC File: 15110-25/2019/002

Jodie Emery
0883467 BC LTD
accounts@cannabisculture.com

Dear Jodie Emery:

This letter comprises the Determination under Part 4 of the Application of Administrative Policies Policy 12.1, for investigation REF-2019-002 related to s. 186(0.1) of the *Election Act*. This section establishes that only eligible individuals can make political contributions.

An allegation that you were non-compliant with section s. 186(0.1) was investigated. The investigation report and recommendations for penalty calculations were provided to you on October 22, 2019. At that time, you were given an Opportunity to be Heard in accordance with Elections BC's Application of Administrative Penalties Policy, 12.1. You did not take any action to rebut or disprove the allegations of Elections BC's investigator during the Opportunity to Be Heard period, or provide any feedback on how the proposed penalty should be calculated.

As you have provided no evidence to the contrary, I accept the findings of the investigator as set out in the following summary:

"On 2018-04-15, 0883467 BC LTD made a political contribution to the BC Marijuana Party. The BC Marijuana Party reported the contribution to Elections BC in their annual financial report for the period of 2018-01-01 to 2018-12-31...[I]t was likely 0883467 BC LTD was not in compliance with section 186(0.1) of the Election Act which requires that a person not make a political contribution unless the person is an eligible individual."

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

Minimum Penalty	\$50	Minimum penalty that would be assessed if the decision-maker decided, on a balance of probabilities, that there has been non-compliance by the subject with the provision of the <i>Election Act</i> set out in the Enforcement Notice
First Instance	\$250	Baseline for assessing the first instance of a particular contravention
Second Instance	\$500	Baseline for assessing the second instance of a similar contravention
Third and subsequent Instance	\$750	Baseline for assessing the third and any subsequent instances of a similar contravention
Maximum Penalty	\$1,000	Maximum penalty allowed per s. 220.04 of the <i>Election Act</i>

**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. In the absence of a rebuttal, or feedback on how the proposed penalty should be calculated, 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 value of the contribution was not large here, consideration of this factor does support increasing the penalty. 0883467 BC LTD is listed as the sole proprietor for Cannabis Culture. The BC Marijuana Party headquarters is located inside the retail store and lounge operated by Cannabis Culture at 307 West Hastings St. in Vancouver. The principal officers of both entities are largely the same or closely related. The two organizations are so interrelated that the responses from 0883467 BC LTD to this investigation came from the BC Marijuana Party financial agent. Because of this connectedness, it is reasonable to expect Jodie Emery, as a principal officer for 0883467 BC LTD to be familiar with the current rules related to political contributions in B.C."

b. Repetition of the behaviour:

"There is no evidence to suggest that this is a pattern of behaviour with 0883467 BC LTD. This appears to be an isolated incident[t]".

c. Cooperation of the subject:

"The 0883467 BC LTD has been cooperative with our investigation. They provided fast and reasonable responses to our questions. I recommend reducing the penalty for this factor by 5% of the maximum penalty, or \$50."

d. Previous Monetary Penalties issued under similar circumstances:

"While there have been no previous monetary penalties issued to contributors for making a prohibited contribution, there is an associated monetary penalty that was suggested for the BC Marijuana Party for the same contribution. In that case, I recommended a \$200 monetary penalty be applied to the BC Marijuana Party. It does not appear reasonable in these circumstances to apply a higher penalty to 0883467 BC LTD for the same instance of non-compliance. In the interests of achieving a fair and equitable penalty, I recommend reducing the penalty for this factor by 5% of the maximum penalty, or \$50."

In agreement with the investigator, I assess a total penalty of \$200 for failing to comply with section

s. 186(0.1) 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
e. Previous Monetary Penalties issued under similar circumstances	- \$50
Total recommended penalty:	\$200

In accordance with Elections BC's Application of Administrative Monetary Penalties Policy, 12.1, the administrative 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 administrative monetary penalty 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

Sincerely,



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