

March 24, 2022

EBC File: 15110-50/2021/502

David Goldsmith
Financial Agent, BC Liberal Party

Via email: contact@bcliberals.com

Dear David Goldsmith:

Re: Administrative Monetary Penalty under the *Election Act*

I am writing further to recent contact you have had with Elections BC compliance and enforcement personnel regarding a contravention of s. 187(2) of the *Election Act*. This letter comprises the Determination under Part 4 of Policy 12.1: Application of Administrative Monetary Penalties, for investigation 2021-502 related to s. 187(2) of the *Election Act*, which states:

187 (1) *An organization or individual required to have a financial agent must not accept political contributions except through the financial agent or an individual authorized in writing by the financial agent.*

...

(2) *A financial agent or an individual authorized under subsection (1) must not accept a political contribution that the financial agent or authorized individual has reason to believe is made in contravention of this Act.*

Background

This matter relates to the BC Liberal Party accepting a contribution that was over the allowable limit and is contrary to s. 187(2) of the *Election Act*. Elections BC's Investigations team provided you with the investigation report and recommendations for a penalty amount range of \$200-\$400 on March 2, 2022. At that time, you were given an Opportunity to be Heard in accordance with Elections BC's Policy 12.1: Application of Administrative Monetary Penalties. On March 9, 2022, we received notice from Controller Kevin Tang that you had waived the Opportunity to be Heard, and accepted the findings of the investigation.

A summary of the findings from the Investigation Report is as follows:

David Goldsmith, the financial agent for the BC Liberal Party, accepted a potentially prohibited contribution and reported that contribution in the party's annual financial report (AFR) for the year 2018. This contribution put the contributor over their allowable limit for the calendar year. After completing my investigation, I concluded that it was likely that Goldsmith, acting in his capacity as the Financial Agent for the BC Liberal Party, was not in compliance with section 187(2) of the Election Act, which states that the financial agent or a person authorized by the financial agent, must not accept political contributions that they have reason to believe are

made in contravention of the Act. I have therefore prepared this investigation report as required by Policy 12.1 Application of Administrative Monetary Penalties. For the reasons explained in the narrative below, I suggest that the Enforcement Adjudicator assess a penalty of between \$200 and \$400 against Goldsmith in his capacity as the Financial Agent for the BC Liberal Party under section 220.06 of the Act.

Determination

I am satisfied that I have the authority to consider the matter and make a decision pursuant to ss 10, 12(3), 187(2) and 220.06 of the Act. In making my decision I have also considered Elections BC's Policy 12.1: Application of Administrative Monetary Penalties.

Having reviewed the file I am satisfied that Financial Agent (FA) Goldsmith accepted prohibited contributions from ██████████ in 2018. The contributions totaled \$1,570, \$370 over the 2018 annual contribution limit, contrary to s. 187(2) of the *Election Act*. I conclude that there was sufficient similarity between the names used by contributor ██████████ that the FA should reasonably have inquired further before accepting prohibited contributions. I am satisfied that an offence under s. 187(2) of the Act did occur, and that it is appropriate to consider issuing an Administrative Monetary Penalty under s. 220.06 of the Act.

Penalty Calculation

Elections BC decision makers may consider policy guidance when making a determination of an Administrative Monetary Penalty but are not bound by policy. The policy guidance assists us with ensuring that adjudication decisions consider relevant factors and are reasonably consistent, predictable, and objective.

I reviewed the enforcement file and factors which may influence the amount of the penalty.

- The matter was not self-reported by the FA or the BC Liberal Party, but was discovered upon review of the Annual Financial Report by Elections BC staff.
- It does appear that the BC Liberal Party discovered the over-contribution and refunded the \$370 to ██████████ on August 8, 2019 and provided proof to Elections BC investigators upon inquiry.
- It appears that there was at the time of the contributions a relatively robust internal system of controls in place within the BC Liberal Party, but despite this, the party initially failed to prevent or recognize the over-contribution.
- I am satisfied that the contravention was inadvertent.
- There is a repetitive pattern to the contravention, as there is a similar matter before me involving the FA and the BC Liberal Party.
- The BC Liberal Party, while not having self-reported the matter, has been entirely forthright and cooperative with Elections BC investigators.
- The BC Liberal Party, upon being apprised of the investigation and potential Administrative Monetary Penalty, waived their right to be heard.
- The matter is a minor one, the over-contribution was refunded, and I conclude that it is unlikely to have had any effect on any political contest.
- I reviewed recommendations from Elections BC investigators.

Conclusion

Considering the above, taking into consideration the admitted non-compliance with s. 187(2) of the *Election Act* and mitigating factors, I have decided that David Goldsmith, Financial Agent for the BC Liberal Party, be subject to a \$200 Administrative Monetary Penalty under s. 220.06 of the *Election Act*.

In accordance with Elections BC's Policy 12.1: Application of Administrative Monetary Penalties, the monetary penalty will be applied, and this determination published on Elections BC's website (as noted in 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,

A handwritten signature in black ink, appearing to be 'C. S. Porter', with a long horizontal flourish extending to the right.

Charles S. Porter
Deputy Chief Electoral Officer
Electoral Finance and Operations

cc: Kevin Tang, Controller