

March 24, 2022

EBC File: 15110-50/2021/503

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 2021-503 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 potential prohibited contribution and reported that contribution in the party's third interim financial report (IFR) for 2019. This contribution, when combined with a contribution reported in the party's second IFR for 2019, put the contributor over their allowable limit for the calendar year.

*After completing my investigation, I concluded that it was likely that the financial agent for the BC Liberal Party did not comply with section 187(2) of the *Election Act*. That section 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. In this instance, it appears that the financial agent accepted a donation in contravention of section 186.01 of the Act. Section 220.06 of the Act allows for the provision of monetary penalties for failure to comply with section 187(2) 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 David Goldsmith, 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 investigation file I am satisfied that Financial Agent (FA) Goldsmith accepted a prohibited contribution from ██████████ in 2019. The maximum 2019 contribution limit was \$1,225.17. The contributions from ██████████ totaled \$2,450 for the 2019 calendar year, 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 or discovered by the FA or the BC Liberal Party, but was discovered upon review of Party interim financial reports by Elections BC staff.
- Upon being notified of the over-contribution, the Party did refund the over-contribution and provided proof to Elections BC.
- I am satisfied that the contravention was inadvertent.
- There is a repetitive pattern to the contravention, as there is a similar matter from 2018 before me involving the FA and the BC Liberal Party.
- It does not appear that the FA or Party took adequate steps to prevent, identify, or refund over-contributions following interactions with Elections BC regarding the 2018 ██████████ over-contribution.
- The BC Liberal Party, while not having self-reported the matter, has been entirely forthright and cooperative with Elections BC investigators.
- The Party has taken further steps to prevent and identify over-contributions in the future.
- The BC Liberal Party, upon being apprised of the investigation and potential Administrative Monetary Penalty, waived their right to be heard.
- 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 \$400 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 read 'C. S. Porter', with a long horizontal stroke extending to the right.

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

cc: Kevin Tang, Controller