

April 6, 2023

EBC File: 15110-30/2022/176

Ray Dhaliwal  
Via email

## ENFORCEMENT NOTICE

Dear Ray Dhaliwal:

This letter addresses a contravention under the *Local Elections Campaign Financing Act* (LECFA) and comprises an Enforcement Notice under Part 2 of *Policy 36.3 Administration of Monetary Penalties under the Local Elections Campaign Financing Act*.

Elections BC provided you with a copy of the Investigator's report into this matter, which included the investigator's preliminary findings. You did not provide a response to the investigation report.

### Background:

You were a candidate for the Mayor of Kamloops in the 2022 General Local Election. For the 2022 General Local Election, the pre-campaign period started July 18, 2022, and ended September 16, 2022, and the campaign period started September 17, 2022 and ended on general voting day, on October 15, 2022.

On September 23, 2022, Elections BC received a complaint about an advertisement in in the Kamloops Connector that did not contain the required authorization statement. The ad in question was a quarter page advertisement box containing your image, a short biography and a slogan stating 'Triple A Vote For Ray'.

On September 26, 2022, Elections BC followed up with you regarding the ad, and informed you that you were required to include an authorization statement on all election advertising. On September 27 you contacted Elections BC and confirmed that the Kamloops Connector will be submitting a correction; however, October's final draft has already been submitted for printing and can not be retracted for editing.

On October 20, 2022 an Elections BC investigator reached out to you, to obtain further information about the ad. The investigation concluded that you sponsored multiple ads in the Kamloops Connector and Kamloops This Week at a cost of \$856.80. The ads were published during the campaign period, and did not include the required authorization statement.

### Legislation:

Section 44 (1) of the *Local Elections Campaign Financing Act* requires that a candidate who sponsors election advertising ensure that the advertisement does the following:

- identifies the financial agent,
- indicates that it was authorized by the financial agent, and

- gives a B.C. telephone number, an email address or a B.C. mailing address at which the financial agent may be contacted regarding the advertising.

Section 7(1) of LECFA defines election advertising as:

- 7 (1) Subject to subsection (2) and any applicable regulations, election advertising is the transmission to the public by any means,*
- (a) during the campaign period, of any of the following:*
    - (i) a communication that promotes or opposes, directly or indirectly, the election of a candidate or an elector organization that is endorsing a candidate, including a communication that takes a position on an issue with which the candidate or elector organization is associated;*
    - (ii) assent voting advertising that is election advertising under section 8 (3) [assent voting advertising that is election advertising];*
    - (iii) any other communications prescribed by regulation, and*
  - (b) during the pre-campaign period for a general local election, of any of the following:*
    - (i) a communication that promotes or opposes, directly or indirectly, the election of a candidate or an elector organization that is endorsing a candidate;*
    - (ii) assent voting advertising that is election advertising under section 8 (3);*
    - (iii) any other communications prescribed by regulation.*

Section 10 of LECFA sets out the pre-campaign and campaign periods for a local election:

- 10 (1) The election period in relation to an election is the period that*
- (a) begins, as applicable,*
    - (i) in the case of an election that is part of a general local election, at the start of the calendar year in which the election is held,*
    - (ii) in the case of a by-election, on the day the local authority office that is to be filled by the by-election becomes vacant, or*
    - (iii) in the case of any other election, on the date specified by or determined under the regulations, and*
  - (b) ends at the beginning of the campaign period for the election.*
- (1.1) The pre-campaign period in relation to a general local election is the period that*
- (a) begins on the eighty-ninth day before general voting day for the election, and*
  - (b) ends on the twenty-ninth day before general voting day for the election.*
- (2) The campaign period in relation to an election is the period that*
- (a) begins on the twenty-eighth day before general voting day for the election, and*
  - (b) ends, as applicable,*
    - (i) in the case of an election by voting, at the close of general voting for the election, or*
    - (ii) in the case of an election by acclamation, at the end of general voting day.*
- (3) The assent voting proceedings period in relation to non-election assent voting is the period that*
- (a) begins on the twenty-eighth day before general voting day for the assent voting, and*
  - (b) ends at the close of general voting for the assent voting.*

**Analysis and Determination:**

I have carefully reviewed the Investigator's report, and I concur with their preliminary conclusions. The ads that you sponsored promoted you as a candidate for Mayor of Kamloops. The ads were distributed during the campaign period, and did not contain an authorization statement as required in section 44(1) of LECFA.

I find that the ads in question contravened section 44(1) of LECFA.

**Monetary Penalty:**

Because of my finding above, s. 68.25(1) of LECFA requires me to issue an administrative monetary penalty against you, of up to \$5,000.

In assessing this penalty, I note the following:

- The lack of an authorization statement would not likely have misled a reader to conclude that the signs were sponsored by another individual or organization – the transparency purpose of the Act had been substantially met.
- The total value of advertisements was \$856.80.
- This was your first local event as a participant.
- You were cooperative and corrected the errors where possible.

Based on these considerations, I make the following finding:

- Ray Dhaliwal contravened section 44(1) of LECFA, and must pay a penalty of \$150 to the Chief Electoral Officer of B.C., under section 68.25(2)(a) of that Act.

**Review/Court Relief:**

You may request a review of this determination by an Adjudicator. A request must be made in writing and must be received by the Investigator within 14 days after the date on which the Subject received the Enforcement Notice. The request must state the grounds on which the request for review is made. The Adjudicator is not bound by the Investigator's determinations or reasons in this Enforcement Notice, and must consider the matter afresh and with an open mind.

You may also seek relief from the B.C. Supreme Court from the monetary penalties under section 68.26 of LECFA. You may wish to seek legal advice prior to requesting relief.

**Penalty Payment:**

Under *Policy 36.3 Administration of Monetary Penalties under the Local Elections Campaign Financing Act*, you have 40 days from today's date to pay the monetary penalties. Payments 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 "Adam Barnes". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Adam Barnes  
Director of Investigations