

May 16, 2023

EBC File: 15110-30/2022/203

Adel Gamar
Candidate for Mayor, Coquitlam
Via email

ENFORCEMENT NOTICE

Dear Adel Gamar:

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 and your financial agent with a copy of the Investigator's report into this matter, which included her preliminary findings. Your financial agent provided a response that I will consider as part of this decision.

Background:

You were a candidate for the Mayor of Coquitlam 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 October 6, 2022, Elections BC received a complaint regarding Facebook advertisements that promoted Adel Gamar as a candidate for Mayor of Coquitlam. The complaint noted that the ad appeared to be missing the required authorization statement. The ads also indicated that they were "Paid for by Gamar Foundation".

Elections BC's Compliance team contacted you to remind you to include all information required in an authorization statement going forward. I understand that you stopped the Facebook advertising on October 10, 2022 to bring yourself into compliance. The file was then forwarded to the Elections BC Investigations team for follow up.

The Elections BC Investigator reached out to you and requested copies of the invoices and information about the source of funding for the advertisements.

Your records indicated that your campaign spent \$49.90 on the two Facebook ads in question, ID: 1157661301498572 and ID: 912850653027770. The ads did not contain an authorization statement as required by section 44(1) of LECFA.

Your campaign stated that the ads were not sponsored by the Gamar Foundation. Your financial agent indicated that Facebook had used the information from previous ads placed by the Gamar Foundation, and had added the Foundation information to the campaign ads in an administrative error. Further, you

provided records to confirm that the two ads were paid for using your campaign account. The Facebook account that sponsored the two Facebook ads appears to be your public account, not an account belonging to the Gamar Foundation. Facebook indicates that the account itself had not merged with another account and that the name of the account had not changed. Your financial agent provided further information in response to our investigation report that suggested that your Facebook account may also have been compromised at the time.

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,
- gives a BC telephone number, an email address or a BC 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 her preliminary conclusions. Facebook ads ID: 1157661301498572 and ID: 912850653027770 promoted you as a candidate for the Mayor of Coquitlam and they were sponsored during the campaign period. The ads did not provide an authorization statement as required in section 44(1) of LECFA.

I find that Facebook ads ID: 1157661301498572 and ID: 912850653027770 that your campaign sponsored during the campaign period 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 of up to \$5,000 against you.

In assessing this penalty, I note the following:

- You indicated that the publication of the advertisements without an authorization statement was inadvertent – this assertion is supported by an earlier Facebook ad that did contain an adequate authorization statement (ID: 811995513171665).
- Once contacted by Elections BC, you cooperatively brought yourself into compliance.
- Your campaign has been cooperative with our investigation.
- You have not previously been the subject of a monetary penalty under LECFA.
- The Facebook ads indicated that the Gamar Foundation paid for them, which did cause some confusion about who sponsored the ads. While your financial records have confirmed that your campaign paid for the ads, and you have asserted that mention of the Gamar Foundation was an error, the confusion meant that the transparency purpose of LECFA was not met.
- You have now participated in two local government elections as a candidate and should be aware of the election advertising requirements.

Based on these considerations, I make the following finding:

- Adel Gamar contravened section 44(1) of LECFA, and must pay a penalty of \$350 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 BC 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,



Adam Barnes
Director of Investigations