

May 16, 2023

EBC File: 15110-30/2022/207

Briar Hartwell
Also known as Briar Meade-Semel
Candidate for Trustee, Sunshine Coast School District – SD46
Via email and mail

ENFORCEMENT NOTICE

Dear Briar Hartwell:

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 her preliminary findings. You did not respond to the investigation report and recommendations.

Background:

You were a candidate for Trustee in the Sunshine Coast School District 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 5, 2022, Elections BC received a complaint regarding your election signs. The complainant noted that the signs did not include an authorization statement.

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 amended the signs, and sent a photo to confirm on October 7, 2022. The file was then forwarded to the Elections BC Investigations team for follow up.

The Elections BC Investigator reached out to you on October 31, 2022, and requested copies of invoices related to the signs. The Investigator sent a reminder email on November 10, 2022, as she had not received a response.

You left a voicemail and emailed the Investigator on November 17, 2022 to indicate that you would send the requested documents the following day.

The investigator left you voice mails to remind you to provide the requested information on November 18 and 23, 2022. The investigator followed up with emails on November 28 and December 28, 2022, and finally sent a letter by mail requesting your records related to the signs. To date, the Investigations team has not received any communication from you after the November 17, 2022 email and voicemail, including in response to the Investigator's report and penalty recommendations.

You did submit a disclosure statement to Elections BC on January 13, 2023, which states that you spent \$728 on your election signs.

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. Your campaign signs promoted you as a candidate for the Trustee in the Sunshine Coast School District, and they were used during the campaign period. Based on your disclosure statement, you paid \$728 for the signs. The signs did not include an authorization statement as required in section 44(1) of LECFA.

I find that the election signs that you used during the 2022 General Local Election 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:

- The lack of an authorization statement would not likely have misled a reader to conclude that the ads were sponsored by another individual or organization – the transparency purpose of the Act had been substantially met.
- Once contacted by Elections BC’s Compliance Officer, you cooperatively brought yourself into compliance by adding an authorization statement to your signs.
- You have not previously been the subject of a monetary penalty under LECFA.
- This is your first local government elections as a candidate.
- Based on your disclosure statement, you spent \$728 on the election signs.
- You provided no substantive response or explanation of why the signs lacked an authorization statement in response to the investigation.
- You have not cooperated with our investigation. The Investigator made multiple attempts to obtain information from you related to this investigation, by email, phone and letter. To date you have not provided any requested information, or any substantive response to the concerns.
 - We have been able to proceed with this matter without the requested information; however, a failure to cooperate with an investigation is a significant factor when assessing a penalty.

Based on these considerations, I make the following finding:

- Briar Hartwell, also known as Briar Meade-Semel, contravened section 44(1) of LECFA, and must pay a penalty of \$400 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,



Adam Barnes
Director of Investigations