

May 14, 2024

EBC File: 15110-30/2023/356, 357, 358 and 359

Jennifer Kerrigan

Via email

ENFORCEMENT NOTICE

Dear Jennifer Kerrigan:

This letter addresses four contraventions 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 each of the four matters, which included their preliminary findings. You did not provide a response to it.

Background:

You were the financial agent for Lloyd Cudmore, Donald Marcotte, Jamie Harris and your own campaign for Local Community Commissioner in the Capital Regional District for the 2023 Salt Spring Island Local Community Commission Election.

On August 22, 2023, you filed a disclosure statement for Lloyd Cudmore, Donald Marcotte, Jamie Harris and your own campaign with Elections BC indicating that each campaign received a contribution of \$250.00 from South Bank Holdings Ltd. on May 26, 2023.

Elections BC's Electoral Finance Audit and Assessment team contacted you on November 1, 2023, to advise you these were prohibited contributions and to explain the requirement to return them. You filed amended disclosure statements on November 30, 2023, indicating that the prohibited contributions had been returned.

The file was then forwarded to Elections BC's Investigations team for follow up.

You provided the Investigator with a detailed sequence of events and evidence that the prohibited contribution had been returned.

Legislation:

Section 27 (1.01) (a) of LECFA states that a financial agent must not accept a campaign contribution from an organization or an individual, other than an eligible individual.

LECFA defines an eligible individual as an individual who is a resident of British Columbia, and a Canadian citizen or a permanent resident.

Section 68.14 of LECFA explains the penalty for non-compliance with section 27:

68.14 (1) *Within 7 days of the BC chief electoral officer making a determination of non-compliance with section 27 [restrictions in relation to campaign contributions] by a candidate, an elector organization, a financial agent or an individual authorized by the financial agent under section 27 (1) (b), the BC chief electoral officer must notify the candidate, elector organization, financial agent or individual authorized by the financial agent under section 27 (1) (b) of the non-compliance and the related penalty.*

(2) *Subject to a court order for relief under section 68.18 [court relief powers in relation to campaign contributions], if the BC chief electoral officer gives notice under subsection (1) of this section, the candidate, elector organization, financial agent or individual authorized by the financial agent under section 27 (1) (b) must pay to the BC chief electoral officer,*

(a) *in the case of non-compliance with section 27 (1), (1.01) (a), (2) or (3), a penalty in an amount of up to 2 times the amount of the campaign contribution, as determined by the BC chief electoral officer, or*

(b) *in the case of non-compliance with section 27 (1.01) (b), a penalty in an amount of up to 2 times the amount by which the campaign contribution exceeds the applicable contribution limit, as determined by the BC chief electoral officer.*

Analysis and Determination:

I have carefully reviewed the Investigator’s reports, and I concur with their preliminary conclusions. The campaign contributions received by all four campaigns from South Bank Holdings Ltd. were not from an eligible individual and were accepted in contravention of section 27 of LECFA.

Monetary Penalties:

Because of my finding above, section 68.14 of LECFA requires me to issue administrative monetary penalties of up to double the amount of the prohibited contributions. The maximum monetary penalty in this case is \$500.00 per contravention, or \$2,000 total.

In assessing these penalties, I note the following:

- Accepting a prohibited contribution gives a candidate an advantage in that the candidate did not need to seek a contribution of that amount from an eligible source, saving the candidate time during a busy campaign.
- Once contacted by Elections BC, you cooperatively brought yourself and all campaigns that you represented into compliance.
- You have been cooperative with our investigation.
- All four campaigns returned the prohibited contribution, as required by s. 28 of LECFA.
- You have not previously been the subject of a monetary penalty under LECFA.
- You have not previously acted as a financial agent or a candidate in a local election.

Based on these considerations, I make the following finding:

- Jennifer Kerrigan contravened section 27 (1.01) (a) of LECFA four times and must pay a penalty to the Chief Electoral Officer of B.C., under section 68.14 (2) (a) of that act, as follows:

Penalty Amount	Campaign
\$125	Jennifer Kerrigan
\$125	Lloyd Cudmore
\$125	Donald Marcotte
\$125	Jamie Harris

Total penalty: \$500

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 these 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 monetary penalties from the BC Supreme Court within 30 days of receiving this notice, under section 68.18 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