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December 13, 2022

EBC File: 15110-30/2022/188

Meghan Lahti
Mayor, Port Moody
Via email

ENFORCEMENT NOTICE

Dear Meghan Lahti:

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. Your campaign manager provided a response to the investigation report. While he asked for the Investigator's report to be amended in order to address some minor errors, I have instead accepted his clarifications and I have considered his submission in reaching this decision.

Background:

You were a candidate for the Mayor of Port Moody 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 26, 2022, Elections BC received a complaint regarding automated calls that promoted Meghan Lahti for Mayor of Port Moody. The complaint noted that the calls lacked an authorization statement.

Elections BC's Compliance team contacted your campaign to discuss the calls. Your campaign indicated that the calls were not automated calls, but were sponsored person-to-person calls. While the Compliance Officer who spoke with your campaign on October 4, 2022, indicated that person-to-person calls did not require an authorization statement, they called your campaign back the next day to indicate that is not the case. Your campaign responded by stopping the phone ads. 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 for the ads, and copies of the original script.

The invoices for the phone ads indicated that you purchased 100 hours of person-to-person phone advertising through Campaign Support Ltd, for \$3,654. The calls did not identify your financial agent, or provide contact information for that agent as required by section 44(1) of LECFA.

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. The advertising phone calls clearly promoted you as a candidate for the Mayor of Port Moody, and they occurred during the pre-campaign period, and they were sponsored ads. The ads did not identify your financial agent, or provide a BC phone number, a BC address or an email address to contact them, as required in section 44(1) of LECFA.

I find that the phone advertisements that you 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 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.
- You indicated that the publication of the advertisements without an authorization statement was inadvertent.
- Once contacted by Elections BC, your campaign quickly ceased the advertisements.
- You have not previously been the subject of a monetary penalty under LECFA.
- That at \$3,654, this was a larger advertising campaign.
- This was your third local government election as a candidate, and you should be aware of the election advertising requirements.

In addition to the above, your campaign manager's submission suggested that the rules regarding election advertising were not clearly understood as they applied to person-to-person sponsored calls. He noted that the Compliance Officer that spoke with your campaign initially indicated that the calls did not require an authorization statement, although the Compliance Officer quickly corrected that error the following day.

I note that on September 15, 2022, Elections BC sent your Financial Agent a letter regarding LECFA requirements. The letter included a link to Elections BCs *Guide to Local Elections Campaign Financing in B.C. for Candidates and their Financial Agents*. Page 43 of that guide notes the requirement to provide sponsorship information, also called an authorization statement, on election advertising. Page 44 of the guide states "If a person is paid to canvass voters, either in person, by telephone or over the internet, the canvasser must provide voters with the required sponsorship information." Just below that statement the guide notes that there are monetary penalties for failing to include sponsorship information.

Based on these considerations, I make the following finding:

- Meghan Lahti contravened section 44(1) of LECFA, and must pay a penalty of \$200 to the Chief Electoral Officer of BC, 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