

April 6, 2023

EBC File: 15110-30/2022/148

George Otty
Know Your Vote, Township of Langley Third Party Sponsor
Via email

ENFORCEMENT NOTICE

Dear George Otty:

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 their preliminary findings. You provided a response to that report, which has been taken into consideration in this decision.

Background:

Section 37(1) of LECFA prohibits individuals or organizations from sponsoring election advertising during the campaign period or pre-campaign period, unless they are registered with Elections BC as a third party sponsor. 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 17, 2022, Elections BC received a complaint about Facebook ads related to the Township of Langley 2022 election. The ads indicated that they were "Authorized by George Otty, registered sponsor under LECFA (2022), george.otty@yahoo.ca", however the complainant noted that you were not listed as a registered third party sponsor on Elections BC's website. The ads provided information about Mayoral candidate Eric Woodward that appear to oppose his election.

Elections BC's Compliance team contacted you on September 20, 2022. You responded on the same day stating that there was a mistake, and that you was operating under the impression that you were registered as a third party sponsor. You explained that you had completed the relevant forms to register as a third party sponsor, and that you had signed them with the Township of Langley Local Chief Electoral Officer. Unfortunately the Local Chief Electoral Officer does not administer or register third party sponsors under LECFA. I understand that the Local Chief Electoral Officer signed the registration forms as a commissioner for taking oaths as required under LECFA.

You subsequently submitted your application to be a third party sponsor for the 2022 General Local Election to Elections BC. Your third party sponsorship application was approved on September 22, 2022.

The Elections BC Investigator reached out to you and requested copies of the invoices for the ads, copies of the original ads and images of the ads.

The investigation determined that you paid for four Facebook ads under your Facebook page *Fort Langley and Township Supporters*. The investigator confirmed that on September 20, 2022 you cancelled all remaining ads while your third party sponsorship application was being processed. The total cost for the ads was \$502.13.

Legislation:

Section 37 (1) of the *Local Elections Campaign Financing Act* prohibits an individual or organization from sponsoring third party advertising, unless they are registered with Elections BC. Section 11 of LECFA defines third party advertising as election advertising that was not sponsored by a candidate or an elector organization.

Section 7 of LECFA defines election advertising during the pre-campaign period as “a communication that promotes or opposes, directly or indirectly, the election of a candidate or an elector organization that is endorsing a candidate”.

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. You sponsored 4 Facebook ads that opposed the election of Eric Woodward as Mayor of the Township of Langley, they were sponsored during the campaign period, and at the time you were not an authorized third party sponsor as required by section 37(1) of LECFA.

I find that the ads in question contravened section 37(1) of LECFA.

Monetary Penalty:

Because of my finding above, s. 68.24(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:

- You had clearly taken significant steps to register as a third party sponsor, but you were mistaken as to how to register.
- Even though you had not registered, your advertisement contained all required sponsorship information.
- You indicated that the failure to register prior to advertising was inadvertent, and the investigation supported that assertion.
- You voluntarily registered with Elections BC once you were informed that of your error, and ceased all advertising until the registration was complete.
- You have not previously been the subject of a monetary penalty under LECFA.
- You have previously participated as a local third party sponsor, during the 2018 general local election, and should have had an understanding of the registration process.

Based on these considerations, I make the following finding:

- George Otty contravened section 37(1) of LECFA, and must pay a penalty of \$150 to the Chief Electoral Officer of BC, under section 68.24(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,

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