

May 14, 2024

EBC File: 15110-30/2023/185

Jim Palm
Candidate for Councillor, Powell River

Via email

ENFORCEMENT NOTICE

Dear Jim Palm:

This letter addresses four contributions to your campaign that resulted in eight contraventions under the *Local Elections Campaign Financing Act* (LECFA). The letter comprises an Enforcement Notice under Part 2 of Policy 36.3 Administration of Monetary Penalties under LECFA.

Elections BC provided you with a copy of the Investigator's report into this matter, which included their preliminary findings. You responded to the report by email and noted your acceptance of a penalty despite disagreeing with the Investigator's ruling. You conclude your response by noting that the rules had changed, and that you had taken steps to comply with the new rules.

It is not clear what you meant by the Investigator's ruling, and I should also note that the Investigator had not made any ruling - the Investigator's report set out the facts determined through the investigation and recommended a penalty range based on those facts. Your response did not object to any of the facts set out in the Investigator's report.

Background:

You acted as your own financial agent for your campaign for Councillor in the city of Powell River in the 2022 General Local Elections.

On December 14, 2022, you filed a disclosure statement with Elections BC indicating that you accepted the following four contributions from organizations totalling \$1,100.00:

1. \$300.00 received on October 1, 2022, from Marshman Industries
2. \$200.00 received on September 30, 2022, from Future Quest Wealth Management
3. \$350.00 received on October 1, 2022, from Taw's & Sons Sporting Goods
4. \$250.00 received on October 20, 2022, from 475372 BC Ltd.

Elections BC's Electoral Finance Audit and Assessment team emailed you on January 16, 2023, to advise you of the possible contravention of LECFA for accepting contributions from organizations and to explain the requirement to return the prohibited contributions. On February 14, 2023, you informed Elections BC that the funds were returned to the organizations. You subsequently filed a supplementary report with Elections BC, including four 4306 *Prohibited Campaign Contributions and Loans* forms, one for each of the contributions. The forms acknowledged that the contributions were from organizations, and stated that they were returned to the organizations on February 8, 2023.

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

The Elections BC Investigator reached out to you and asked if you had any additional information to provide regarding the prohibited contributions. You informed the Investigator the prohibited contributions were inadvertent and that you notified the organizations of your mistake in accepting the prohibited funds.

You confirmed with the Investigator that you did not return the prohibited contributions to the organizations, despite reporting you had done so as part of your supplementary report.

Legislation:

Section 27 (1.01) (a) of LECFA states that a financial agent or an individual authorized under subsection (1) must not accept a campaign contribution from an organization or an individual, other than an eligible individual.

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.*

Section 28 (1) (a) of LECFA states that if a financial agent becomes aware that a campaign contribution was made or accepted in contravention of this Act or the regulations under this Act, the financial agent must, within 30 days after the financial agent becomes aware of the contravention, return the campaign contribution to the contributor.

Section 68.17 of LECFA explains the penalty for non-compliance with section 28:

68.17 (1) *Within 7 days of the BC chief electoral officer making a determination of non-compliance with section 28 [dealing with prohibited campaign contributions] by a financial agent, the BC chief electoral officer must notify the financial agent 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 financial agent must pay to the BC chief electoral officer a penalty in an amount of up to 2 times the amount of the campaign contribution, as determined by the BC chief electoral officer.*

Analysis and Determination:

I have carefully reviewed the Investigator’s report, and I concur with their preliminary conclusions.

The campaign contributions received from Marshman Industries, Future Quest Wealth Management, Taw’s & Sons Sporting Goods and 475372 BC Ltd. were not from an eligible individual and were accepted in contravention of section 27 of LECFA.

And,

The campaign contributions received from Marshman Industries, Future Quest Wealth Management, Taw’s & Sons Sporting Goods and 475372 BC Ltd. were not returned to the contributors within 30 days of you becoming aware of the prohibited nature or the contributions, in contravention of section 28 of LECFA.

Monetary Penalties:

Because of my findings above:

- Section 68.14 of LECFA requires me to issue administrative monetary penalties for accepting contributions contrary to section 27 of up to double the amount of the prohibited contributions. The maximum monetary penalties in this case are as follows:

Maximum Penalty Amount	Contribution
\$700	Taw’s and Sons Sporting Goods
\$500	475372 BC Ltd.
\$400	Future Quest Wealth Management
\$600	Marshman Industries

- Section 68.17 of LECFA requires me to issue administrative monetary penalties for failing to return prohibited contributions contrary to section 28 of up to double the amount of the prohibited contributions. The maximum monetary penalties in this case are as follows:

Maximum Penalty Amount	Contribution
\$700	Taw's and Sons Sporting Goods
\$500	475372 BC Ltd.
\$400	Future Quest Wealth Management
\$600	Marshman Industries

Accepting Prohibited Contributions

In assessing the penalties under section 68.14 for accepting contributions contrary to section 27 of LECFA, I have considered the Investigator's recommended penalty range and the following factors:

- Accepting prohibited contributions 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.
- You noted in your response to the Investigator's report that you were not aware of the rules regarding contributions from organizations and described them as new. I note that you had previously participated in the 2014 and 2018 general local elections.
 - The prohibition on accepting contributions from organizations came into force October 31, 2017, and was in force for the 2018 general local elections.
- Your campaign did not have any preventative measures in place to prevent the acceptance prohibited contributions.
- Your campaign has been responsive to our investigation.
- You have not previously been the subject of a monetary penalty under LECFA.

Based on these considerations, I make the following findings:

- Jim Palm contravened section 27 (1.01) (a) LECFA and must pay penalties to the Chief Electoral Officer of B.C., under section 68.14 (2) (a) of that Act for the contraventions as follows:

Penalty Amount	Contribution
\$200	Taw's and Sons Sporting Goods
\$150	475372 BC Ltd.
\$125	Future Quest Wealth Management
\$175	Marshman Industries

Total penalties under section 68.14 (2): \$650

Failing to Return Prohibited Contributions

In assessing the penalties under section 68.17 (2) for failing to return prohibited contributions contrary to section 28 of LECFA, I have taken all of the factors listed above into consideration, and the Investigator's recommended penalty range.

You informed Elections BC during a phone call with a Compliance Officer on February 14, 2023, that you had returned these contributions to the organizations in cash. You then filed a supplementary report that included four 4306 *Prohibited Campaign Contributions and Loans* forms, affirming that the contributions had been returned to the organizations on February 8, 2023.

You later stated to the Investigator that you had not actually returned the contributions. You informed her that you reached out to the contributors and told them that you had misunderstood the rules, but that you did not need to hand back the money. You informed them that the organizations should note that the contributions were “personal”. While it is not clear how the organizations involved would have done this, it is clear that you did not return the contributions to the organizations as you were required to under section 28 of LECFA. It is also clear that the supplementary report that you filed is not accurate because the contributions were not returned on February 8, 2023.

On April 26, 2024, I emailed you to inform you that I was considering penalties up to the maximum penalty under section 68.17 of LECFA. This is because you had filed the four 4306 *Prohibited Campaign Contributions and Loans* forms that indicated that you had returned the contributions on February 8, 2023, but later informed the Investigator you had not returned them. Because this was a higher level of jeopardy than the penalty recommendation from the Investigator, I wanted to give you another opportunity to respond to the concern. You responded on April 29, 2024, by stating that you had taken out money orders for the four contributions, and were having them hand delivered to the contributors actively. You followed that response with photos of the four money orders, dated April 29, 2024. You did not address the inaccurate nature of the 4306 forms in your response.

A key purpose of LECFA is to ensure transparency in campaign finances for local elections. LECFA requires accurate reporting of contributions and expenditures from political participants. As such, Elections BC takes any filing of misleading statements or false reports by political participants very seriously.

I have chosen to deviate from the Investigator’s recommended penalty range because I have taken specific note of the inaccurate nature of the four 4306 *Prohibited Campaign Contributions and Loans* forms that you filed, and the false assertions that you had previously made to Elections BC that you had returned the contributions. This is a significant aggravating factor to consider, and I find that it outweighs all of the mitigating factors considered above. As such, I am assessing the maximum penalty under section 68.17 for failing to return the contributions under section 28 of LECFA.

Based on these considerations, I make the following findings:

- Jim Palm contravened section 28 (1) (a) of LECFA and must pay penalties to the Chief Electoral Officer of B.C., under section 68.17 (2) of that act as follows:

Penalty Amount	Contribution
\$700	Taw’s and Sons Sporting Goods
\$500	475372 BC Ltd.
\$400	Future Quest Wealth Management
\$600	Marshman Industries

Total penalties under section 68.17 (2): \$2,200

For clarity, the total of the eight penalties assessed under sections 68.14 and 68.17 by this Enforcement Notice is \$2,850.

Review/Court Relief:

You may request a review of this determination by an Elections BC 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 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