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# Investigation into the Recall Campaigns in Prince George North, Skeena and Comox Valley

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# Investigation into the Recall Campaigns in Prince George North, Skeena and Comox Valley

## 1.0 APPOINTMENT BY CHIEF ELECTORAL OFFICER OF BRITISH COLUMBIA

On September 18, 1998, the Chief Electoral Officer (“CEO”) of British Columbia, Mr. Robert A. Patterson, retained Ronald H. Parks of Lindquist Avey Macdonald Baskerville Company, Forensic and Investigative Accountants, to undertake an investigation into recall campaigns in the electoral districts of Prince George North, Skeena, and Comox Valley. The text of the authorization letter, as amended on October 8, 1998, is set out as follows:

October 8, 1998

To Whom It May Concern:

“In accordance with section 169 of the Recall and Initiative Act (the “Act”),

I hereby authorize

**Ronald H. Parks, CA, CFE,**

and any member of the staff of **Lindquist Avey Macdonald Baskerville**, to conduct an investigation, financial and otherwise, of any matter that might constitute a contravention of the Act in relation to the Recall campaigns in the electoral districts of Prince George North, Skeena and Comox Valley.

This authority includes the right to interview any person, enter at any reasonable time the premises where records relevant to the investigation are kept, and to inspect and make copies of records. All records and all information required by the bearer of this letter must be provided.

This authority must not be used to enter a dwelling house except with the consent of the occupant or the authority of a warrant.

Please direct any questions to Elections BC at (250) 387-5305, or toll-free at 1-800-661-8683.

Signed  
Robert A. Patterson

**2.0 TERMS OF REFERENCE**

The terms of reference for our investigation were not explicitly set out by the CEO; however, our mutual understanding was that the investigation would focus on, but not be restricted to, the disclosure of expenses incurred and contributions received by both the recall proponents and Members of the Legislative Assembly (“MLA”) in each of the campaigns in the three electoral districts. We engaged Mr. Patrick Saul of Alexander Holburn Beaudin & Lang, Barristers & Solicitors, as our legal counsel to assist us in these matters and to provide advice with respect to various legal issues.

The CEO has authority under the Recall and Initiative Act (“the Act”) to conduct audits of the accounts of financial agents, proponents, and MLAs in relation to a recall campaign, and may conduct investigations of any matter that might constitute a contravention of the Act. This authority is pursuant to Section 169 of the Act as follows:

Enforcement of Act by chief electoral officer

- 169 1) The chief electoral officer may conduct
- a) audits of the accounts of financial agents and authorized participants, and
  - b) investigations of any matter that might constitute a contravention of this Act or a regulation under this Act.
- 2) For the purposes of subsection (1), the chief electoral officer or a representative of the chief electoral officer may inspect and make copies of the records of an individual or organization
- a) who is or was a financial agent at any time during the previous 5 years,
  - b) who is or was an authorized participant at any time during the previous 5 years,
  - c) who is or was required to file an initiative advertising disclosure report at any time during the previous 5 years, or
  - d) who is or was required to file a recall advertising disclosure report at any time during the previous 5 years,

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- 3) Section 276 (3) to (6) of the *Election Act* applies in relation to the authority under subsection (2).
  - 4) Sections 278 and 279 of the *Election Act*, respecting the enforcement of that Act and penalties under that Act, apply for the purposes of enforcing this Act or a penalty under this Act.

Section 276 (3) to (6) of the Election Act is as follows:

Investigations and audits by chief electoral officer

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- 3) In relation to the authority under subsection (2), the chief electoral officer or a representative of the chief electoral officer may enter at any reasonable time the premises where the records of the individual or organization are kept.
  - 4) An individual or organization occupying premises referred to in subsection (3) must
    - a) produce and permit copies or extracts to be made of all records required by the chief electoral officer or the representative, and
    - b) provide all information that the chief electoral officer or representative may reasonably require.
  - 5) The authority under subsection (3) must not be used to enter a dwelling house except with the consent of the occupant or the authority of a warrant under subsection (6).
  - 6) On being satisfied on evidence on oath or affirmation that there are reasonable and probable grounds to believe that there are in a place records or other things relevant to the matters referred to in this section, a justice may issue an order authorizing the chief electoral officer, a representative of the chief electoral officer or a peace officer to enter the place and search for and seize any records or other things relevant to the matter in accordance with the warrant.

Sections 278 and 279 of the Election Act deal with enforcement of election expenses penalties and enforcement of the Act by court injunction respectively and are not reproduced here.

In the course of our investigation, it became apparent that the enforcement provisions in the Act might not be adequate to permit us to effectively pursue our mandate.

As noted above, subsection 169 (1) (b) of the Act authorizes a broad investigation of

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..... any matter that might constitute a contravention of this Act.....

The authority to obtain and, if necessary, compel production of relevant documents is fundamental to the effective conduct of such an investigation. The Act, however, may not provide the CEO with adequate powers in this respect.

Subsection 169 (2) authorizes the CEO or his representative to inspect the records of a limited class of individuals and organizations. In what may have been a legislative oversight, the Act does not authorize the CEO to pursue relevant documents and records in the possession of persons other than those listed in subsections 169 (2) (a) to (d). In the result, the CEO may have no effective way in which to pursue documents in the hands of individuals or organizations whom he may reasonably believe to have contravened the Act but who are not specifically defined by the Act.

Accordingly, Section 10.0 of our report includes a recommendation that the CEO seek an amendment to subsection 169 (2) to ensure that his authority to inspect and compel production of documents is consistent with the broad scope of the investigative authority which he is given under subsection 169 (1) (b).

### **3.0 OVERVIEW OF FINDINGS**

In the course of our investigation, we identified a number of areas of concern which we summarize below.

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- 3.1 Interpretation of the Act and Regulations** We found that certain sections of the Act are difficult for laypersons to understand and are therefore susceptible to varying interpretations. We considered the interpretations made by the various parties involved in addition to the rulings made by Elections BC with respect to both the Recall and Initiative Act and the Election Act.
- 3.2 Contradictions in the Act** We found that the provisions of the Act with respect to third party recall advertising sponsors and the source of contributions for such advertising are not clear. We believe that these contradictions make it difficult for the various parties involved to interpret the requirements of the Act in a consistent manner.
- 3.3 Errors and Omissions** Generally, we found errors and/or omissions in the financial disclosure reports filed by all parties to the three recall campaigns. We considered such errors and omissions to be findings of fact. Accordingly, we did not assign any responsibility to particular individuals or organizations nor did we make any findings as to whether these errors and omissions constitute contraventions of the Act.
- Our calculated impact on the campaign financing reports is based on our assumptions regarding the reporting requirements.
- 3.4 Recommendations** We made a number of recommendations which we believe, if implemented, will assist the public by clarifying various provisions of the Recall and Initiative Act. We believe these recommendations will make certain sections of the Act more consistent with the Election Act.
- Our recommendations are contained in Section 10.0.

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**4.0 RECALL AND INITIATIVE ACT**

The Act received royal assent on July 8, 1994 and was brought into force by Order in Council on February 24, 1995. It was amended September 1, 1995 as a result of changes to the Election Act. The Act was not used prior to the May 28, 1996 provincial general election.

**4.1 History of the Act**

After the 1996 general election, the Act was effectively in suspension for eighteen months, per subsection 19 (4):

- 19 4) No application for the issuance of a recall petition may be made during the 18 months following general voting day for the last election of the Member.

Recall petition requests, therefore, could first be made on November 28, 1997. Elections BC issued approval for the province's first recall petition applications on December 5, 1997 for recall petitions in the constituencies of Prince George North and Skeena.

**4.2 The Recall Process**

The Elections BC Guide to the Recall Process (the "Guide") defines recall as:

*"... a process that allows registered voters to petition for the removal of a Member of the Legislative Assembly between elections."*

The Guide states that any registered voter can obtain an application form from Elections BC and ask to have a petition issued for the recall of their MLA. The application must include a statement of why, in the opinion of the applicant, their MLA should be recalled. The completed application form along with a processing fee of fifty dollars must be submitted to the CEO.

If the application is approved by the CEO, a petition is issued to the applicant (proponent) within seven days. The Act does not allow the CEO any grounds to refuse an application for a recall petition as long as he is satisfied that the requirements of section 19 (paraphrased in the preceding paragraph) have been met.



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When a recall proponent begins gathering signatures on the petition, the onus for determining eligibility of the signatories is borne by the proponent, registered canvassers for the proponent and the public.

Subsection 21 (1) of the Act states:

- 21 1) In order to sign a recall petition, an individual
- a) must have been a registered voter for the electoral district for which the Member was elected on general voting day for the last election of the Member, and
  - b) on the date he or she signs the petition must be a registered voter for an electoral district in British Columbia.

The proponent and MLA are provided with a list of registered voters both as of the date of the last provincial election and as of the date the petition is issued. Registered canvassers are required to sign a declaration on each petition sheet stating:

*“To the best of my knowledge and belief, each signature is the genuine signature of the person whose name it purports to be and the person who signed the petition was qualified to do so.”*

The proponent has sixty days from the date the petition is issued to collect signatures from more than forty percent of the voters who were registered to vote in the MLA’s electoral district in the last provincial election and who are currently registered as voters in BC.

When the signed petition sheets are submitted to Elections BC, the CEO has forty-two days to verify that the requisite number of valid signatures were collected. All signatures deemed to be ineligible are disqualified in determining the success of the petition. If enough valid signatures are on the petition and the financing rules are met by the proponent, the MLA ceases to hold office and a by-election must be called within ninety days. A recalled MLA is allowed to run as a candidate in the by-election.

To date, none of the recall petitions has succeeded.

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### 4.3 Recall Contributions

Both recall proponents and MLAs can raise money from the public to assist in their respective campaigns.

Subsection 111 (1) of the Act defines a recall contribution as:

111 1) ... an amount of money or the value of any property or services provided without compensation by way of donation, advance, deposit, discount or otherwise to an authorized participant in relation to a recall petition.

Subsection 107 (1) defines an authorized participant as follows:

107 1) The authorized participants for a recall petition are

- a) the proponent of the petition, and
- b) the Member who is the subject of the petition.

Section 1 defines a proponent as:

1 c) ... the registered voter who applied for the issuance of the petition, and, in relation to Parts ... 7 and 8, includes an individual who intends to become a proponent or who was a proponent.

Parts 7 and 8 of the Act address recall petition financing and recall petition communications.

The definitions provided in the Act suggest that contributions made prior to the granting of a petition would be reportable.

Another interpretation, however, may be that an authorized participant in the recall campaign is not officially identified until a recall petition is approved by the CEO; therefore, contributions should exclude money, property or services received prior to the official start of the recall period.

From our discussions with Elections BC, we understand that their interpretation of the Act requires that contributions, including money, property and services, received prior to, during and after the recall petition period be disclosed. It is unclear, however, whether contributions received by a separate entity which ceases to operate once the recall petition is issued are required to be reported by the campaign.

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This is clearly an area of the Act that is subject to varying interpretations. Our review of the required filings by the various recall participants is indicative of this.

The Act, in subsection 116 (1), also restricts the method by which contributions are made:

- 116 1) An individual or organization must not do any of the following:
- a) make a recall contribution to an authorized participant except by making it to the financial agent;
  - b) make a recall contribution without disclosing to the financial agent the information required to be recorded under section 120;
  - d) make a recall contribution with the money, other property or services of another;
  - e) make a recall contribution indirectly by giving money, other property or services to an individual or organization
  - f) for that individual or organization to make as a recall contribution, or
  - g) as consideration for that individual or organization making a recall contribution.

The purpose of these restrictions appears to be to ensure that the individual responsible for the financial report is aware of all of the relevant transactions.

#### **4.4 Recall Expenses and the Recall Expense Limit**

Subsection 114 (1) defines a recall expense as:

- 114 1) ... the value of property or services used during a recall petition period to promote or oppose, directly or indirectly, the recall of the Member who is the subject of the recall petition.

With respect to incurring recall campaign expenses, subsection 121 (1) requires that:

- 121 1) ... an individual or organization other than an authorized participant must not incur a recall expense.

Subsection 107 (2) further requires that:

- 107 2) An authorized participant may only accept recall contributions and incur recall petition expenses through his or her financial agent.

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A strict interpretation of these definitions would require that only a financial agent incur recall expenses, although the Act also allows for assistant financial agents to be given the same powers, duties and protections as the financial agent.

Practically, however, where the financial agent acts primarily as a bookkeeper, others involved in the campaign (in addition to the assistant financial agents) actually incur the expenses. In our review of the documents provided to us, we noted several instances of campaign workers being reimbursed for expenses they incurred. It appears that there is a lack of awareness within the campaigns as to the requirement for only financial agents and assistant financial agents to incur recall expenses.

The Act imposes a ceiling on the amount of money that can be spent on a recall campaign by each side. All campaigns are allowed to spend a minimum of \$25,000. In electoral districts with more than 25,000 registered voters, the spending limit is increased by \$0.25 for every registered voter in excess of 25,000. When a recall petition request is approved, the allowable spending limit is calculated by the CEO and communicated to the authorized participants.

The recall expense limits for the campaigns under investigation were:

Prince George North	\$27,442.22
Skeena	\$28,967.63
Comox Valley	\$29,617.06

Subsection 122 (2) of the Act states that certain expenses are exempt from the recall expense limit. These include:

- fees charged by the CEO;
- costs incurred for producing copies of the petition;
- personal recall expenses of the authorized participants;
- legal or accounting services provided to comply with the Act;
- services provided by a financial agent in that capacity; and
- interest on a loan for recall expenses to an authorized participant.

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The recall expense limit includes only those expenses incurred within the sixty day recall period. Expenses incurred for property or services used either before or after the period are required to be disclosed as “other expenses”. It is unclear, however, whether expenses incurred by an organization operating as a separate entity outside of the recall period are required to be disclosed by the campaign.

If the proponent exceeds the established expense limit, the petition fails and the proponent is required to pay the CEO a penalty of double the amount by which the expenses exceeded the limit.

If the MLA exceeds the limit, the MLA is required to pay a penalty of ten times the amount by which the expenses exceeded the limit.

**4.5 Recall Advertising Sponsors**

The Act allows individuals or organizations other than the authorized participants to spend up to a maximum of \$5,000 on advertising during a recall period. The Act also specifies that individuals and organizations may not, in combination with others, sponsor advertising such that the individuals’ or organizations’ total expense exceeds \$5,000.

**4.6 Due Diligence**

Offences under the Act are defined in Part 9. Section 155, however, specifically provides a defence of due diligence:

155 An individual or organization is not guilty of an offence under this Act if the individual or organization exercised due diligence to prevent the commission of the offence.

Because it is not part of our mandate to identify the conduct of any individual or organization as an offence under the Act, our report sets out the factual results of our investigation without expressing any opinion as to whether those facts establish an offence under the Act. Further, we have not expressed any opinions with respect to whether an individual or institution may have exercised due diligence within the meaning of section 155.

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**5.0 RECALL  
CAMPAIGNS  
UNDER  
INVESTIGATION**

We were retained to investigate the recall campaigns in Prince George North, Skeena and Comox Valley. In each of these electoral districts, two recall petitions were approved and issued.

**5.1 Primary  
Campaigns**

Details of the initial recall campaigns in the electoral districts are as follows:

<u>Petition #</u>	<u>Constituency</u>	<u>Proponent</u>	<u>MLA</u>
R97001	Prince George North	Pertti Harkonen	Paul Ramsey
R97002	Skeena	G. Lorne Sexton	Helmut Giesbrecht
R98004	Comox Valley	Robert Saint Amour	Evelyn Gillespie

The petitions in both Prince George North and Skeena were issued on December 5, 1997. With a sixty-day recall period, the return date for both petitions was February 3, 1998. The petition in Comox Valley was issued on February 12, 1998, requiring return by April 14, 1998.

In their applications for recall petitions, the proponents stated the following as to why, in their opinions, the recall of their MLAs was warranted:

**5.1.1 R97001 - Prince George North**

*“I/We believe that Paul Ramsey has not adequately represented the citizens of Prince George North.*

*Mr. Ramsey won his seat in the 1996 provincial election by leading constituents to believe the budget was balanced when in fact it was not. This misrepresentation of the province’s financial well-being resulted in cancellation and delays in promised capital expenditures.*

*Mr. Ramsey as Minister of Health and Minister of Education condoned the firing of democratically elected hospital boards and has threatened to dismiss a democratically elected school board.*

*Such Acts of misrepresentation and intimidation can not be supported.*

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*I/We believe the citizens of Prince George North deserve an opportunity to replace Mr. Ramsey as their Member Of The Legislature.”*

**5.1.2 R97002 - Skeena**

*“We, as voters of Skeena riding, choose to recall Helmut Giesbrecht as our representative in the provincial legislature, for the following reasons:*

*Mr. Giesbrecht was elected to represent all the people of Skeena riding. His job as an MLA is to listen to the issues, concerns and problems of his constituents that fall under the jurisdiction of the provincial government. He is then to work on their behalf to insure that their issues are heard in Victoria. He is paid very well by the people to work for the people.*

*However, Mr. Giesbrecht has repeatedly, throughout both his terms in office, refused to listen to, or represent, the people of Skeena riding on numerous critical issues. On many of these issues he has even publicly ridiculed and verbally attacked the very people who brought their requests to him. He has demonstrated by his decisions and actions that he does not work for the people - he works for the government. This has left the people of Skeena riding without a voice in Victoria.*

*Because of his unwillingness to do the job he was elected to do, he should not hold the office of MLA.”*

**5.1.3 R98004 - Comox Valley**

*“In my opinion, Evelyn Gillespie, - the NDP MLA for the Comox Valley - Has failed to adequately convey the wishes of her constituents to Victoria. And, at times, she has actually acted against our interests. Examples, such as the Glacier View Lodge and the BC Ferry issues, amply demonstrate her unwillingness to listen to the people of the Comox Valley. Instead, she chose her bosses in Victoria over us. As such, I believe she is liable to be made accountable. And subject to this recall.”*

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Full details of our investigations of the three primary recall campaigns are in Sections 6.0 to 8.0.

## 5.2 Secondary Campaigns

Details of the second recall campaigns in the electoral districts are as follows:

<u>Petition #</u>	<u>Constituency</u>	<u>Proponent</u>	<u>MLA</u>
R97003	Skeena	John How	Helmut Giesbrecht
R98002	Prince George North	James Loughery	Paul Ramsey
R98006	Comox Valley	Robert Saint Amour	Evelyn Gillespie

The second recall petitions in Prince George North and Skeena were issued while recall campaigns were already underway (January 16, 1998 in Prince George North and December 12, 1997 in Skeena). The second petition in Comox Valley was issued on July 21, 1998, after the end of the first campaign.

We interviewed each of the proponents and determined that none of them mounted campaigns or attempted to obtain signatures on a petition.

The timing of the second recall petitions, however, is relevant to the determination of the effective recall expense limits in each of the first campaigns. Because recall expense limits apply to each campaign, an overlap in campaigns results in an opportunity for the MLA to effectively increase the expense limit by incurring expenses in the overlapping period and allocating them between the two campaigns.

The same opportunity is not available to proponents, however, unless they act in collusion with one another. We reviewed notes of a telephone discussion between Ms. Shelley Lawlor, financial agent for the primary Prince George North campaign, and Ms. Nola Western, Manager, Election Finances at Elections BC. In the discussion, Ms. Lawlor referred to the possibility of having a second petition issued in order to effectively increase the expense limit that they were subject to. Elections BC, however, was of the view that if two petitions were issued in the same electoral district, the proponents would be required



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to keep their petitions separate and, therefore, would not be able to combine their expense limits.

**5.2.1 R98002 - Prince George North**

The second Prince George North recall petition was filed by Mr. Loughery during the period of the first recall petition. The second recall period was January 16, 1998 to March 17, 1998; accordingly, the recall periods overlapped for approximately two weeks. In response to the second petition, Mr. Ramsey could have begun a second anti-recall campaign. The issuance of the second petition, therefore, effectively increased the expense limit of Mr. Ramsey's campaign by allowing Mr. Ramsey the opportunity in the period January 16 to February 3, 1998 to incur expenses and allocate them between the two anti-recall campaigns.

The Recall Financing Report filed for Mr. Ramsey's second campaign indicates that no contributions were received and no expenses were incurred. Since no costs were allocated to this campaign then, the primary anti-recall campaign was still subject to the original prescribed expense limit.

**5.2.2 R97003 - Skeena**

Similar to Prince George, a second petition was issued in the Skeena riding during the first recall period. The petition was issued to Mr. How on December 12, 1997, with the sixty-day recall period ending on February 10, 1998. The majority of the two recall periods overlapped, resulting in the opportunity for Mr. Giesbrecht's campaign to effectively exceed the prescribed expense limit by allocating expenses incurred in the period December 12, 1997 to February 3, 1998 between the two campaigns.

The Recall Financing Report filed for Mr. Giesbrecht's second campaign indicates that no contributions were received and no expenses were incurred. Because no costs were allocated to the second campaign, then, Mr. Giesbrecht's primary anti-recall campaign was still subject to the original recall expense limit.

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### **5.2.3 R98006 - Comox Valley**

A second recall campaign was started in Comox Valley by Mr. Saint Amour. The recall petition was approved on July 21, 1998 and withdrawn on July 23, 1998, a period that did not coincide with the first campaign. In contrast to the other constituencies, then, the issuance of the second petition did not provide Ms. Gillespie with the opportunity to increase the effective recall expense limit.

### **5.2.4 Conclusions**

In the course of our investigation, we found no financial or other irregularities in the secondary campaigns. We understand that two of the proponents of the secondary recall campaigns were New Democratic Party supporters. Nevertheless, it does not appear that these campaigns were mounted in order to increase the allowable ceilings on recall expenses of the MLA anti-recall campaigns.

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**6.0 PRINCE  
GEORGE  
NORTH**

In the Prince George North constituency, MLA Mr. Paul Ramsey won the 1996 general election by a narrow margin.

A rally held on October 20, 1997, organized by Mr. Alfredo Lavaggi and the Active Citizens of BC group (“Active Citizens”), showed there was considerable support for recall. We understand that, at this stage, Mr. Lavaggi and Dr. Roy Hobbs were the primary organizers. In late November, Mr. Pertti Harkonen was asked to be the proponent of the recall petition. The official recall campaign, operating as “Recall Ramsey”, began on December 5, 1997, at which point Active Citizens ceased to operate.

In response to the Active Citizens rally, Mr. Ramsey’s supporters formed Citizens For Local Democracy, also known colloquially as C4LD. The co-chairs of C4LD were Mr. John Backhouse and Ms. Kathy Jessome, while the activities were co-ordinated by Mr. Robert Steventon. C4LD continued into the official recall period as Mr. Ramsey’s anti-recall organization.

**6.1 Proponent –  
Pertti Harkonen**

The sixty-day recall period ran from December 5, 1997 to February 3, 1998. As prescribed by the Act, “Recall Ramsey” was allowed to incur recall expenses totalling \$27,442.22. Mr. Harkonen’s campaign finances and required filings to Elections BC were the responsibility of his financial agent, Ms. Shelley Lawlor.

**6.1.1 Recall Financing Report**

The “Recall Ramsey” Recall Financing Report and subsequent amendments were filed by Ms. Lawlor. The most recent amended report was filed on October 31, 1998.

The October 31, 1998 report discloses contributions received by the campaign of \$30,457. Of this total, \$16,125 was a personal loan, including interest, from Dr. Roy Hobbs that was not repaid and was subsequently forgiven. \$14,026 was donations of money and \$306 was donations of property and services.

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We were informed by Ms. Lawlor of two anomalous items. First, the campaign received and rejected a \$3,000 donation because it was made by an individual in the name of another individual, which is specifically prohibited in subsection 116 (1) (e) (i) of the Act. Second, Ms. Lawlor received and subsequently returned to Elections BC anonymous cash donations of \$210.

Disclosed campaign expenses totalled \$35,030, with \$26,518 being subject to recall expense limits. The balance of the expenses related mainly to legal services, interest incurred and personal expenses of the proponent and were not subject to recall expense limits. We were advised by Ms. Lawlor that the report does not disclose expenses incurred prior to the recall period because they were incurred by Active Citizens, which she considered to be a separate entity.

#### **6.1.2 Other Financial Issues**

We interviewed Ms. Lawlor and reviewed the financial documents she provided. We noted the following items which, had they been disclosed, would have caused the campaign to exceed the prescribed recall expense limit.

##### *Cost of Legal Services*

“Recall Ramsey” engaged the services of Crease Harman Company, Barristers & Solicitors (“Crease Harman”), both during the recall period and subsequently with respect to a judicial review. As prescribed in subsection 122 (2), legal services provided to comply with the Act are exempt from the expense limit.

The invoices rendered by Crease Harman with respect to the recall campaign appear to have been properly reported by the campaign as expenses not subject to the limit. A third Crease Harman invoice, however, relates to services provided with respect to the judicial review. The invoice is dated February 27, 1998 and totals \$5,714 (net of discount provided) for legal services and disbursements in the period February 4 to 20, 1998.

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We understand that Ms. Lawlor considers this matter to be separate from the recall campaign. Elections BC, however, considers the judicial review to be related to the campaign. Subsection 125 (2) (e) of the Act states:

125 2) A financing report must include the following:

- e) any income received and any expenditures made or incurred by the authorized participant in relation to the recall petition, if these are not otherwise disclosed in the report.

The judicial review relates to a dispute between the proponent (Mr. Harkonen) and the CEO with respect to which of the voters lists provided by the CEO to the recall campaign should be used as the basis for determining the success or failure of the campaigns. It appears, then, that expenses incurred with respect to the review were “in relation to the recall petition” and, therefore, should have been reported by the campaign.

Because the costs were incurred outside of the recall petition period, the invoice amount of \$5,714 should have been disclosed as an “other expense”.

#### *Donation of Legal Services*

The invoices rendered by Crease Harman relating to the recall campaign include a “courtesy discount” of fifty percent of total fees totalling \$3,435. \$299 of the discount relates to legal services provided prior to the recall period (November 27 to December 4) and \$3,136 relates to services provided during the period (December 5 to February 3). An additional invoice relating to legal services provided for the judicial review includes a discount of \$3,384.

Subsection 111 (1) defines recall contributions as including discounts provided to an authorized participant in relation to a recall petition. As discussed in Section 4.3, Elections BC requires the disclosure of all contributions received, including those received prior to an authorized participant being identified. As well, subsection 125 (2) (e) requires that income received in relation to the petition be reported. Accordingly, all of the discounts provided by Crease

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Harman totalling \$6,819 (\$3,435 plus \$3,384) should have been disclosed as contributions in the financing report.

As noted earlier, legal services provided to comply with the Act are exempt from the expense limit. \$3,136 of the total amount, then, should have been disclosed as an expense not subject to limit. The remaining \$3,683 should have been disclosed as an “other expense” since it relates to services provided outside of the recall petition.

#### *Third Party Advertising*

Mr. Harkonen received third party advertising support for his campaign from Mr. James Hankins and his company, Sure-Spar Logging Co. Ltd. In January 1998, both through his own registered sponsorship and that of Mr. Khiem Lawlor, Mr. Hankins sponsored advertising totalling \$8,456. Further details are provided in Section 9.1.

As indicated in Section 9.1, we found that Mr. Hankins’ sponsorship exceeded the limit of \$5,000 placed on third-party advertising. In order for Mr. Hankins to have not exceeded the limit, \$3,456 of his sponsorship would have to have been provided directly to the campaign. We assume that the campaign would have accepted the funds and used them for advertising purposes.

The campaign, therefore, should have received and disclosed an additional \$3,456 in campaign contributions and an additional \$3,456 on advertising, a recall expense subject to the limits.

#### **6.1.3 Effect on Recall Financing Report**

Based on our findings as outlined above, the financing report filed for Mr. Harkonen’s campaign should have included an additional \$10,275 (\$6,819 + \$3,456) of campaign contributions, bringing total contributions to \$40,732. The report should also have included an additional \$3,456 in expenses subject to the limit (relating to Mr. Hankins’ advertising costs), \$3,136 in expenses not subject to the limit (relating to discounts provided on legal services during the recall

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period) and \$3,683 in other expenses (relating to discounts provided prior to, and after, the recall period).

Total recall expenses subject to the limit should have been reported as \$29,974, which exceeds the prescribed limit by approximately \$2,532.

Our calculations are detailed in Schedules 1 and 2.

**6.2 MLA – Hon. Paul Ramsey**

As prescribed by the Act, Mr. Ramsey’s anti-recall campaign was also subject to the expense limit of \$27,442.22. Mr. Ramsey’s financial agent was C4LD co-ordinator Mr. Bob Steventon.

**6.2.1 Recall Financing Report**

The Recall Financing Report for Mr. Ramsey’s campaign was filed by Mr. Steventon. A notation on the cover sheet indicates that revisions were made to September 19, 1998.

The report discloses that a total of \$35,935 was received as contributions to the campaign (\$35,232 in money and \$703 in property and services) and a total of \$35,167 was spent. Of the total expenses, \$24,412 was subject to the recall expense limit. The remaining \$10,755 was incurred outside of the recall period.

We reviewed the financial documents relating to the campaign, provided by Mr. Steventon through his counsel, Mr. Ian Aikenhead.

**6.2.2 Other Financial Issues**

While we did not note any errors in the report filed by Mr. Steventon based on our review of the documents provided to us by his counsel, certain items came to light during our investigation that, had they been disclosed in the report, would have caused the campaign to exceed the recall expense limit.

*Sam Bridge*

Mr. Sam Bridge worked on all three primary anti-recall campaigns. He agreed to be interviewed as part of our investigation, providing information on the participants in the anti-recall campaigns and their roles. Mr. Bridge also provided numerous documents in his

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possession relating to the work he did on the three campaigns. We independently investigated the information he supplied to the extent possible.

The issue of whether Mr. Bridge provided recall campaign services in Prince George North is relevant to the calculation of contributions received and expenses incurred subject to the recall expense limit.

Further, if Mr. Bridge provided recall campaign services, the determination of whether those services were provided in the capacity of a volunteer or a paid contractor impacts on the calculation.

Mr. Brian Gardiner, Provincial Secretary for the British Columbia New Democratic Party (“BC NDP” or “NDP”), informed us that Mr. Bridge was in Prince George during the recall period under instructions from him to conduct a one week party membership drive. Mr. Gardiner further advised us that membership work was done. If Mr. Bridge did anything other than membership work, Mr. Gardiner felt that he overstepped his instructions and authority.

The invoice submitted by Mr. Bridge to the NDP states that he worked from December 15 to 21, 1997, on a membership drive. Mr. Bridge informed us, however, that he actually worked as an organizer for C4LD, primarily doing telephone canvassing to determine the level of support for recall in the constituency. As well, he assisted in writing letters to the local media and finding local supporters to sign them.

Mr. Bridge informed us that the membership drive was a cover story suggested by Mr. Gardiner and that he did no membership work in Prince George; he worked only on recall. Mr. Gardiner denied the cover story allegation.

Mr. Bridge informed us that he was involved in telephone conference calls during the recall campaign, where political strategy was discussed. As well, he provided us with a memo from Mr. Gardiner which had been distributed to Mr. Bridge and others involved in recall, requesting that Mr. Bridge participate in a recall “post-



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mortem” conference call, organized by Mr. Gardiner, after the conclusion of recall campaigns in Prince George and Skeena.

We confirmed with a member of the anti-recall campaign that Mr. Bridge worked on recall while he was in Prince George. Ms. Jackie Woodcock, who was Mr. Ramsey’s constituency assistant at the time, informed us that Mr. Bridge was clearly concerned with recall issues. In fact, he spoke with several volunteers individually to determine their roles and activities to date.

We found no evidence that Mr. Bridge solicited party memberships while in Prince George.

The determination of whether Mr. Bridge was a volunteer is dependent on his relationship with the NDP. Subsection 180 (5) of the Election Act states:

- 180 5) The value of the following is not a political contribution:
- a) services provided by a volunteer, being an individual who
    - i. voluntarily performs the services,
    - ii. receives no compensation in relation to the services directly or indirectly from the organization or individual to whom the services are provided, or from another organization or individual to whom the provision of such services would otherwise be a political contribution,
    - iii. receives no compensation in relation to the services directly or indirectly from an organization or individual other than his or her employer, and
    - iv. receives no greater compensation from his or her employer than the compensation that the individual would normally receive during the period the services were performed;

An employee of the NDP, therefore, can provide services to an election campaign while being compensated by the NDP and be considered a volunteer to the campaign.

In our view, however, Mr. Bridge is not an employee of the NDP. Rather, his working relationship with the party is as a contractor. Our view is further supported by the method in which Mr. Bridge was

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compensated in Skeena and Comox Valley. In each of those constituencies, similar to Prince George North, Mr. Bridge was reportedly attending for membership drive purposes. In each instance, however, Mr. Bridge received at least a portion of his compensation from the anti-recall campaigns. If Mr. Bridge was, in fact, a volunteer, he would not have received any salary directly from the campaigns.

Because Mr. Bridge attended in Prince George to work on the anti-recall campaign and was not a volunteer to the campaign, the costs incurred for his services, including travel and accommodation, should have been disclosed as both contributions and expenses of the campaign.

Mr. Bridge advised us that he drove from Vancouver to Prince George at his own expense. Mr. Gregory McDade, counsel for Mr. Gardiner, provided documents indicating that the NDP paid Mr. Bridge a salary of \$500, plus a \$175 total per diem, for his work.

We confirmed in an interview with Mr. Bryan McIver, who was Mr. Ramsey's ministerial assistant at the time of recall, that he personally paid for the first night of Mr. Bridge's accommodation in Prince George. Documents provided by Hawthorne Bed & Breakfast, where Mr. Bridge stayed for the next three nights, verify that the accommodation cost of \$120 was paid by Mr. Gardiner. Mr. Bridge informed us that he was billeted for the remainder of his stay.

We estimate the total cost of Mr. Bridge's attendance in Prince George North was \$1,443 (\$608 for his mileage calculated as 1,600 kilometres at the standard government rate of \$0.38 per kilometre, \$675 for his salary and per diem, \$120 for Hawthorne Bed & Breakfast and we estimate \$40 for his first night's accommodation).

As discussed in Sections 4.3 and 4.4, recall contributions and expenses are required to be made to or incurred by the financial agent to the campaign. We understand from our discussions with Mr. Steventon that he was unaware of the costs associated with Mr. Bridge's attendance in Prince George North. In our view, either those who funded Mr. Bridge's attendance or Mr. Bridge himself

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should have made Mr. Steventon aware of those costs in order to ensure their appropriate disclosure to Elections BC.

*Strategic Communications Inc.*

Strategic Communications Inc. (“Strategic Communications”) is a communications firm that has done extensive polling and fundraising work for the provincial NDP, according to Strategic Communications principal, Mr. Robert Penner.

The British Columbia and Yukon Territory Building and Construction Trades Council (“Trades Council”) is an organization comprised of fifteen autonomous construction unions. In early December 1997, they commissioned Strategic Communications to do a telephone opinion poll to canvass the views of trade union families in Prince George North towards recall. We were informed by Mr. Ed King, who was employed by Strategic Communications at the time of recall, that when the Prince George poll was conducted, the company was simultaneously engaged in fundraising for the NDP.

Mr. Tom Sigurdson, Executive Director of the Trades Council, informed us of his telephone conversation with Mr. King to discuss polling. The Trades Council wanted to determine how involved they should become in the recall issue.

He further informed us that Strategic Communications designed all of the polling questions and conducted the poll from December 15 to 19, 1997. Because the union locals do not provide membership lists to the Trades Council, Strategic Communications was not able to canvass union households only. The poll, therefore, sampled all households, regardless of union status. The Trades Council paid Strategic Communications \$4,985 for the polling work.

Mr. Sigurdson advised us that the NDP looked to the Trades Council for participation in recall. Because he found the poll results encouraging, however, Mr. Sigurdson determined that the union would not need organizers to speak to their members about the issues.

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Mr. Sigurdson advised us that he shared the results of the poll with all of his local affiliates as well as with individuals in the NDP with whom he had regular contact, including with Provincial Secretary Mr. Gardiner, MLAs and ministerial assistants. Based on the results, he was able to show the NDP that recall was not problematic for Mr. Ramsey

Mr. Sigurdson informed us that he only passed on the poll results verbally. Mr. King, however, informed us that Mr. Sigurdson authorized his sending the poll results to anyone who requested them.

Mr. King further informed us that Mr. Gardiner requested the polling results. We were informed by Bryan McIver, who was Mr. Ramsey's ministerial assistant at the time, that he did not receive the results of the Strategic Communications poll. Mr. King, however, indicated that Mr. McIver provided him with the fax number for the constituency office and that written summaries of at least two days' polling results were faxed there. In addition, we were provided with the original faxed summary sheet for December 16, 1997, which was addressed to Mr. Gardiner, titled "Recall Poll" and received on the back of Lois Boone, MLA letterhead. Ms. Boone, an NDP MLA for Prince George – Mount Robson, shared the constituency office with Mr. Ramsey.

The determination of whether the poll results were used in considering the strategy of Mr. Ramsey's campaign is relevant to the determination of whether the polling cost should have been disclosed by the campaign as a contribution by the Trades Council and an expenditure subject to the expense limit.

The December 16, 1997 polling results indicated that approximately 175 individuals responded to polling questions that day. Opposition to recall outnumbered support by a margin of approximately 2 to 1. We were unable to obtain the total number of individuals surveyed over the course of the polling and the overall polling results.

At approximately the same time as the Strategic Communications poll, the C4LD campaigners were doing their own telephone canvassing. In addition, a poll done for the Prince George Citizen

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newspaper, with similar conclusions about the lack of support for recall, was published.

Mr. Gardiner advised us that, in his view, the Strategic Communications poll had no impact on the C4LD campaign and the campaign received no benefit from the poll findings. According to Mr. Gardiner, because the C4LD members did not know of the poll results, they did not use the poll to map out strategy and did not make any public pronouncements about it. In Mr. Gardiner's view, then, the cost of conducting the Strategic Communications poll is not a reportable expense.

The poll was not disclosed to Elections BC in the campaign financial report as a contribution by the Trades Council nor was it separately reported as an opinion poll expense by the C4LD campaign. C4LD co-ordinator and campaign financial agent Mr. Steventon advised us that he was unaware of the poll and did not know who had commissioned or paid for it.

Mr. Bridge advised us that although the Strategic Communications poll results were not seen by C4LD members, they were known and discussed by individuals involved with Mr. Ramsey. Mr. Bridge further advised us that the results were a factor in assisting Mr. Ramsey's political advisors in determining the strength of the recall campaign.

The timing of the poll (December 15 to 19, 1997) is relevant because at that stage, approximately two weeks into the campaign, strategy was likely being determined. It appears that the polling results were received by the Prince George constituency office and were made available to Mr. Ramsey's advisors. The results were also provided to NDP officials who were involved in the strategy planning.

A poll whose results are not intended to be made public appears to serve no other purpose than to be used by the sponsoring organization for information and planning. In our opinion then, it is reasonable to assume that the Strategic Communications poll was used by advisors to the campaign in mapping out their strategy. Again, the Act requires that a recall contribution or a recall expense

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can only be made to or incurred by the financial agent for the campaign. Mr. Steventon, however, denied knowledge of the Strategic Communications poll.

We were informed by Mr. King that at least two days' results were provided to Mr. Ramsey's constituency office. Accordingly, we estimate that at least forty percent (two of five polling days) of the total cost of the poll should have been included in the campaign financial report as both a contribution by the Trades Council and an expense of the campaign. The amount that should have been included is \$1,994 (\$4,985 x 40%).

*Viewpoints Research Ltd.*

Viewpoints Research Ltd. ("Viewpoints") is a polling and research company located in Vancouver. Viewpoints principal, Ms. Leslie Turnbull, informed us that the company conducted a poll in the Prince George North and Skeena constituencies during the recall campaigns. She also informed us that the cost of the polling was paid for by the NDP.

We attempted to obtain further information with respect to this polling. Specifically, our request included the following:

- a) the amount paid for the polling services;
- b) a copy of the questionnaire used by the pollsters;
- c) the period during which the polling was conducted; and
- d) confirmation of whether Viewpoints was instructed to forward the poll results to any organization or individual, other than the NDP.

In response, we were advised by Ms. Turnbull, on behalf of Viewpoints, that:

*"We believe we are not an appropriate party to respond ..."*

Mr. Greg McDade, counsel for the NDP, subsequently confirmed that Viewpoints did conduct polling in Prince George North and Skeena

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during the recall period. Mr. McDade informed us that to Mr. Gardiner's knowledge, the anti-recall campaigns were unaware of this polling. Their position, therefore, is that the polling is of no relevance to our investigation. Accordingly, they provided no further information. Without further information, we are unable to determine whether the results of this polling were used in the respective campaigns.

*BC Federation of Labor*

The BC Federation of Labour ("BCFL") is an umbrella organization representing various unions in BC. At the time of recall, Mr. Bill Tieleman was the communications director and assistant to the president of the BCFL. Mr. Tieleman informed us that in early January 1998, he was advised by Mr. John Pollard of the Office of the Premier that several volunteers, mostly from the government's political staff, were willing to assist with the anti-recall campaigns. Mr. Tieleman suggested that the BCFL might be willing to incur the cost, estimated at between \$2,500 and \$4,000, of flying the volunteers to the constituencies. BCFL President Mr. Ken Georgetti approved the payment for the flights, a decision that was subsequently formally approved by the BCFL's board of directors.

Ten airline tickets with a total cost of \$3,926 were purchased through the BCFL's travel agent. With respect to whether the BCFL considered that the cost of the flights might be a recall contribution, Mr. Tieleman advised us that, according to Mr. Pollard, there was no difficulty with respect to the financing requirements with the BCFL providing travel assistance to volunteers.

Mr. Tieleman, however, did not seek independent advice either from his own counsel or from Elections BC to determine whether the cost of the flights should have been reported as a donation to the campaigns.

Mr. Tieleman informed us that other than the purchase of the airplane tickets, there was no financial assistance provided by the BCFL to the anti-recall campaigns.

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Mr. Gardiner advised us that, in his view, none of the payments made by the BCFL was a reportable campaign contribution or expense, since the funds received were used in respect of travel for volunteers, a practice not specifically addressed by the Act.

In late January 1998, seven of the volunteers flew to Prince George at a cost to the BCFL of \$2,881. Of the seven volunteers, we confirmed with the Public Service Employees Relation Commission that five were government employees at the time. We also verified that each of those government employees filed the proper documentation with the Ministry of Human Resources to take leave without pay for the days during which they worked on the anti-recall campaign. In one case, the volunteer was not required to request leave without pay because the individual did not miss any work days. We are satisfied that each of the government employees was a volunteer and therefore, their wages are not contributions to the campaign. We are also satisfied that the volunteers paid for their own meals and accommodation and did not seek to be reimbursed by the government.

Subsection 111 (4) (b) states that:

- 111 4) The value of the following is not a recall contribution:
- b) property of a volunteer if the property is provided or used in relation to the services of the individual as a volunteer;

With respect to the air travel costs, in this instance, the property of the volunteers was not used to pay for their travel costs. Rather, funding was received from a third party in respect of the costs.

Mr. Steventon denied knowledge of payments made by the BCFL with respect to travel costs, which is inconsistent with the provisions of the Act requiring that recall contributions be made to and recall expenses be incurred by the financial agent.

#### *Telephones*

The use of telephones in corporate and union offices is common practice by political parties during election campaigns. Generally, in election campaigns, the use of existing third party telephones and



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telephone lines is not disclosed as an expense due to the difficulties in valuing their use.

The Prince George North anti-recall campaign made use of third party telephones to discuss or canvass the recall issues with constituents. C4LD used existing telephones in the Hospital Employees Union (“HEU”) offices in evenings or on weekends. We understand, however, that no additional telephone equipment was installed and that no long distance charges were incurred since all long distance calls were made from the campaign office telephones. Strictly speaking, the use of such equipment would be a recall expense, based on its market value. The difficulties in establishing such a value appear to have resulted in these costs not being disclosed.

The Prince George and District Labour Council (“Labour Council”) installed fifteen telephones in the IWA office in Prince George for canvassing purposes. They registered with Elections BC as a third party recall advertising sponsor and in their required filings, reported spending \$3,709 on a telephone bank. Elections BC considers telephone banks to be an approved advertising form; therefore, the disclosure by the Labour Council is appropriate and no additional contributions or expenses are required to be included in the financing report of the campaign.

### **6.2.3 Effect on Recall Financing Report**

Based on our findings as outlined above, had the additional costs been disclosed to Mr. Steventon, the financing report filed for Mr. Ramsey’s campaign should have included an additional \$6,318 (\$1,443 relating to Mr. Bridge’s costs, \$1,994 for a portion of the Strategic Communications poll and \$2,881 for the airfares to Prince George) as contributions.

Total contributions received by the campaign, therefore, should have been \$42,255.

The financing report should also have disclosed an additional \$6,318 in expenses subject to the limit. Total expenses subject to the limit

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should have been \$30,730, an excess of approximately \$3,288 over the prescribed limit.

Our calculations are detailed in Schedules 3 and 4.

## **7.0 SKEENA**

The Committee to Recall Helmut Giesbrecht was formed in the fall of 1997. Former Social Credit cabinet minister, Mr. Bud Smith, discussed the use of recall legislation at an October meeting attended by approximately 300 people in Terrace. In November, Mr. Troy Lanigan, Provincial Director of the BC Division of the Canadian Taxpayers Federation (“CTF”) and Mr. Bruce Hallsor of Crease Harman, counsel for CTF, held a meeting in Terrace to discuss training manuals they had prepared relating to recall financing and the requirements and responsibilities of recall petition canvassers. On December 5, 1997, the “Crash Helmut” campaign began with the issue of a petition to proponent Lorne Sexton.

Supporters of Mr. Giesbrecht began a campaign to oppose recall in November 1997 which was organized by Ms. Gail Murray, who took time off from her work as Mr. Giesbrecht’s constituency assistant. The campaign, operating as Skeena Taxpayers Association (“STA”), was co-chaired by Ms. Elaine Pigeau and Mr. Ray Brady. Ms. Pigeau was responsible for events in Terrace while Mr. Brady was responsible for events in Kitimat.

### **7.1 Proponent – Lorne Sexton**

The sixty-day recall period in Skeena covered the same period as the Prince George North campaign, December 5, 1997 to February 3, 1998. The prescribed recall expense limit for the campaign was \$28,967.63. The “Crash Helmut” campaign finances were primarily the responsibility of Mr. Sexton’s financial agent, Mr. W.A. Sandhals. Our review of the documents filed with Elections BC indicated that fourteen assistant financial agents were also appointed and approved for the campaign.

#### ***7.1.1 Recall Financing Report***

The “Crash Helmut” campaign Recall Financing Report was filed on February 18, 1998. No amendments were made by Mr. Sandhals

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after that date, although some minor adjustments were made by Elections BC.

The report (as adjusted by Elections BC) discloses total contributions received by the campaign of \$18,021, of which \$16,588 was contributions of money and \$1,433 was contributions of property and services. The report also discloses total expenses of \$21,437. Of this amount \$18,920 was subject to the recall expense limit; the remainder was exempt from the limit.

We reviewed the “Crash Helmut” campaign financial documents provided to us by Mr. Sandhals. Mr. Sandhals advised us that, in his opinion, the Act was not applicable to transactions outside of the recall period. Accordingly, we noted that, in general, a distinction was made between transactions occurring during the recall period and transactions occurring outside of the recall period. The report filed for the “Crash Helmut” campaign appears to include some, but not all, of the contributions received and expenses incurred outside of the recall period.

As stated earlier, subsection 111 (1) of the Act defines a contribution as:

- 111 1) ... an amount of money or the value of any property or services provided without compensation by way of donation, advance, deposit, discount or otherwise to an authorized participant in relation to a recall petition.

Contributions to the Skeena campaign were made in anticipation of recall, but prior to the petition being issued on December 5, 1997. Further, contributions received prior to Mr. Sandhals being authorized as financial agent for the campaign were deposited to a different bank account (held in the name of the Committee to Recall Helmut Giesbrecht) than that used during the recall period (held in the name of the Crash Helmut Campaign). The Act is unclear as to whether the contributions received in the pre-recall period by this apparently separate entity should have been reported.

With respect to campaign expenses, the Act requires reporting of expenses incurred during the recall period separately from those

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incurred outside of the period. Again, it is unclear whether pre-recall expenses incurred by a separate entity, which ceases to operate once the petition is issued, require disclosure.

The issue is complicated further by the determination of whether the two organizations (in the pre-recall and recall periods) are substantively separate as opposed to simply having different names. In our review of the bank documents for both periods, we noted that Mr. Sandhals was a signing authority on both accounts. We also noted that in the pre-recall period, Mr. Sexton was also an authorized signatory.

Based on our review of the documents provided, we noted the following with respect to the report filed for the “Crash Helmut” campaign.

#### *Contributions*

Contributions received were recorded on detailed listings and deposited to the bank account. We noted some differences between contributions per the accounting records, the bank documents and the report disclosure.

In our review of the documents, we noted that contributions were received and deposited to the bank account between October 2, 1997 and September 1, 1998. As noted above, monies received prior to Mr. Sandhals official appointment as financial agent on December 1 were deposited to a separate bank account. It appears that contributions disclosed in the report include the period December 1, 1997 (the date of Mr. Sandhals’ appointment) to February 18, 1998 (the date the report was filed). We considered the disclosure of contributions received since December 1, 1997 and deposited to the bank account used throughout the campaign to be appropriate, given the lack of clarity in the Act with respect to contributions received by a different entity.

The total contribution of money disclosed in the report was \$16,588, including a contribution for payment of Mr. Sexton’s personal expenses of \$837, leaving \$15,751 (\$16,588 less \$837) of actual

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monetary contributions. Deposits made to the bank account in the period December 1, 1997 to February 18, 1998 total \$15,524, leaving a small difference with the actual monetary contributions disclosed of \$227.

We were unable to reconcile contributions disclosed as having been made by Mr. Sexton himself to supporting documents. It may be, then, that some of these donations were non-monetary and could account for a portion of the difference.

We were also unable to reconcile the non-monetary contributions as disclosed in the report to supporting documents. The report indicates that donations of property and services totalled \$1,433 while the documents indicate \$709 being donated, for a difference of \$724. Again, contributions by Mr. Sexton may account for a portion of this difference.

Our review of the bank documents indicates that an additional \$1,734 was received after February 18, 1998. The report should have been amended to reflect this amount.

#### *Expenditures*

With respect to recall campaign expenses, we noted that the documentation provided to us was incomplete. We were not provided with source documentation to support expenses such as telecommunications, furniture and equipment purchase and travel costs.

The campaign received two invoices in February 1998 that were not included in the report filed:

- invoice from Crease Harman dated February 27, 1998 totalling \$895 after discount, for services provided from December 12, 1997 to February 18, 1998; and
- invoice from BC Report Magazine Ltd. (“BC Report”) dated February 9, 1998 totalling \$535 for advertising in the February 9, 1998 issue.

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The Crease Harman invoice relates mainly to services provided during the recall period (\$772), with a small amount provided after, up to the date of the report being filed with Elections BC (\$123). The BC Report invoice relates to an advertisement requesting donations to cover the cost of the recall campaign. \$772 of the Crease Harman invoice should have been included in the report as an expense incurred during the recall period but not subject to the limit. The remainder of the Crease Harman invoice (\$123), as well as the BC Report invoice (\$535) should have been included as an “other expense”.

We also reviewed invoices provided to us by the Terrace Times, relating to advertisements placed during the recall period. We identified one invoice, dated January 14, 1998 for \$323, that does not appear to have been disclosed by the campaign. This amount should have been included as an expense subject to the recall expense limit.

With respect to expenses incurred prior to the campaign, we reviewed the bank documents and noted that prior to December 1, 1997, the original account, held in the name of the Committee to Recall Helmut Giesbrecht, was used. As discussed earlier, because the expenses were incurred by a different entity, the Act does not appear to specifically require that they be disclosed as “other expenses” in the report.

#### **7.1.2 Other Financial Issues**

In addition to the above, we noted the following items in our review of the financial documents.

##### *Donation of Legal Services*

The invoice rendered by Crease Harman on February 27, 1998 includes a 50% discount on fees, totalling \$738, which should have been disclosed as a contribution to the campaign. Of the total, \$630 relates to services provided within the recall period and should have been disclosed as a recall expense not subject to the expense limit. The remaining \$108 relates to services provided after the recall period and should have been disclosed as an “other expense”.

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*Partial Payment of Invoice by Canadian Taxpayers Federation*

Combined advertisements were placed in BC Report by the Skeena and Prince George North recall campaigns. We understand that the campaigns were to share the costs, with the “Crash Helmut” campaign responsible for one of the invoices, totalling \$1,600. The campaign was not able to pay the full amount of this invoice. We were advised by Mr. Lanigan of CTF that the campaign requested the assistance of CTF in making a payment. CTF paid \$751 to BC Report between May and August 1998, which should have been disclosed as a contribution on a revised report. Our calculations below use the reported amounts, including adjustments made by Elections BC, as the basis.

**7.1.3 Effect on Recall Financing Report**

Because of the discrepancies noted between the financing report filed and the supporting documents provided, it is difficult to determine what disclosed contributions and expenses should have been. Our calculations below use the reported amounts, including changes made by Elections BC, as the basis for the adjusted totals.

Contributions should have included an additional \$1,734 for amounts received after the report was filed with Elections BC, \$738 relating to the total discount received from Crease Harman and \$751 for the payment of an invoice by CTF. Based on the amounts reported in the filing, contributions should have totalled \$21,244 ( $\$18,021 + \$1,734 + \$738 + \$751$ ).

Expenses subject to the limit should have included an additional \$323 relating to advertising costs, increasing the total to \$19,243.

Expenses not subject to the limit should have included an additional \$772 relating to Crease Harman’s services during the recall period and \$630 relating to Crease Harman’s discount provided during the recall period.

Other expenses should have included an additional \$123 for Crease Harman’s services after the recall period, \$108 for Crease Harman’s

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discount provided after recall and \$535 relating to the BC Report advertisement placed after the recall period.

**7.2 MLA – Helmut Geisbrecht**

Mr. Giesbrecht's campaign was also subject to the recall expense limit of \$28,967.63. The campaign finances were handled by Mr. Jerry Reitman, Financial Agent.

**7.2.1 Recall Financing Report**

The Recall Financing Report was filed by Mr. Reitman on February 24, 1998. No subsequent amended filings were made.

The report discloses that a total of \$18,519 was donated to the campaign, of which \$16,824 was monetary and \$1,695 was property and services. A total of \$17,617 was reported to have been spent, with \$14,523 of expenditures incurred during the recall period and subject to the recall expense limit and \$3,094 of expenditures incurred in the pre-recall period and therefore not subject to the limit.

Mr. Reitman provided us with the financial documents relating to the campaign through his counsel, Mr. Ian Aikenhead. Based on our review of the documents, we noted the following.

*Contributions*

Contributions were received beginning September 10, 1997. As discussed in Section 4.3, Elections BC requires disclosure of contributions to an authorized participant as well as to an individual who subsequently becomes an authorized participant. Our review of the documents provided indicates that the anti-recall campaign disclosed all recorded donations, whether received during or outside of the recall period.

We noted some errors in the disclosure of contributions greater than \$250. For example, the required separate disclosure of contributions greater than \$250 shows that a donation of \$1,100 from the Kitimat Terrace & District Labour Council was reported twice. In addition, the report fails to separately disclose a contribution of \$400 from an individual. The donation was made in two parts: \$300 prior to the recall period (September 10, 1997) and \$100 during the recall period



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(December 18, 1997). The reporting of all contributions received requires that the total amount be separately disclosed as a contribution greater than \$250.

We noted some differences between the total contributions received and deposited to the bank account, the total contributions per the receipt books and the total contributions disclosed in the report. For example, the following contributions were disclosed separately in the report as amounts greater than \$250:

- \$465 from the CUPE Area Office on November 15, 1997;
- \$465 from the CAW Local 2301 on December 6, 1997; and
- \$515 from the IWA on December 6, 1997.

While these amounts were separately disclosed as contributions in the report, we were not provided with receipts supporting the donations and the amounts do not appear to have been deposited to the bank account. We note, however, that the report also discloses contributions of property and services of \$1,695. We were not provided with documentation relating to in-kind donations; therefore, it may be that the above noted contributions were not monetary, but were of property and services.

#### *Expenditures*

With respect to campaign expenses, we noted that the source documentation provided to us was incomplete. In several instances, invoices were not provided to support expenses such as rent, advertising and wages.

We noted that certain expenditures, totalling \$660, were not included in the filing, possibly because they were incurred subsequent to the date the report was filed without a subsequent amendment. If that was the case, these expenses should have been disclosed as “other expenses” in the report.

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### **7.2.2 Other Financial Issues**

As with the campaign in Prince George North, we found certain items in the course of our investigation that should have been disclosed in the report, causing an increase in the total recall expenses incurred.

#### *Sam Bridge*

As with the Prince George North constituency, the issue of whether Mr. Bridge attended in Skeena to do membership or recall work is relevant to the determination of contributions received and expenses incurred that are subject to the recall expense limit.

Mr. Bridge informed us of a telephone discussion where Mr. Gardiner again suggested they use a membership drive as a cover story, an allegation which Mr. Gardiner denies.

We understand from Mr. Frank Rowe, who was president of the Skeena NDP Constituency Association at the time of recall, that STA was informed that Mr. Bridge was attending to do membership work. Ms. Gail Murray, the organizer of STA, advised us that she spoke with Mr. Gardiner regarding individuals who might be available to assist with the campaign. Mr. Gardiner then advised her that Mr. Bridge would be attending in Terrace and would have time to work on the campaign. Based on the documents provided, it appears that Mr. Bridge worked for STA from approximately January 12 to February 4, 1998.

Mr. Bridge informed us that he co-ordinated an extensive telephone canvass of the constituency relating to recall issues and also helped draft letters to the local media. As with the Prince George campaign, he was involved in telephone conference calls to discuss anti-recall strategy as well as the “post-mortem” conference call organized by Mr. Gardiner.

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Mr. Bridge further informed us that he signed up only one individual to an NDP membership while in Skeena. We saw no evidence that Mr. Bridge was chiefly involved in soliciting NDP memberships while in Skeena. According to Mr. Rowe, Mr. Bridge often did not arrive until the afternoon. Ms. Murray informed us that Mr. Bridge worked afternoons and evenings on recall. It appears, then, that Mr. Bridge had little available time to do NDP membership work. In fact, we were informed by Ms. Murray that she did not believe that he was there for membership work.

Documents provided by the NDP through their counsel, Mr. Greg McDade, indicate that Mr. Bridge was to do a membership drive in Skeena beginning February 10, 1998, that is, after the end of the recall period. However, Mr. Bridge advised us that he left Skeena on February 5, 1998 and was not involved in a Skeena membership drive after that date.

Our review of the STA financial documents confirms that Mr. Bridge was paid a total of \$1,650 by STA, which we were informed by Ms. Murray was based on his regular salary of \$500 per week. The amount was properly disclosed in the report filed with Elections BC. The documents indicate that Mr. Bridge was also provided with a \$200 loan which we understand was subsequently repaid.

Mr. Bridge provided us with his airline ticket showing travel from Vancouver to Terrace. The ticket was obtained through W.E. Travel Service and purchased on a Diners' Club credit card. We confirmed with Mr. Gardiner that W.E. Travel Service is the travel agency used by the provincial NDP and that the credit card used belongs to the NDP. During his stay in Terrace, Mr. Bridge was billeted; therefore, no costs were incurred.

Given that he received his normal salary from the anti-recall campaign for the approximately three weeks that he spent in Skeena and that he appears to have had little time available for membership work, in our view, Mr. Bridge worked full-time providing services relating to recall. Ms. Murray advised us that at the time of Mr. Bridge's arrival in Terrace, she felt that his airfare, paid for by a third party to the

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recall campaign, should have been disclosed by the campaign. That is, the cost of his travel should have been included as both a campaign donation and expense.

As required by the Act, a recall contribution and a recall expense can only be made to and incurred by a financial agent (or assistant financial agent). In Skeena, we understand, the financial agent (Mr. Reitman) acted primarily as a bookkeeper and had little contact with or knowledge about the campaign. Ms. Murray, however, was an assistant financial agent and as such, had a responsibility to report Mr. Bridge's costs to Mr. Reitman when they became known to her. Alternatively, the financial agent should also have been made aware of the costs by the contributor. The additional cost that should have been disclosed is \$928.

*Buddy Kitchen*

We made inquiries as to the activities in Kitimat of Buddy Kitchen, an employee of the Canadian Auto Workers union in Ontario. Mr. Kitchen appears to have been peripherally involved in the anti-recall campaign, primarily in helping to organize a "car rally". Mr. Kitchen was a union employee whose costs were borne by the union and our inquiries indicated that his involvement was chiefly with union members. As prescribed by subsection 180 (5) (a) of the Election Act, also applicable to the Recall and Initiative Act, Mr. Kitchen's activities are considered to have been provided on a volunteer basis. Any costs associated with his presence are not considered to be campaign contributions or expenses.

*Viewpoints Research Ltd.*

As discussed in Section 6.2.2, we confirmed that Viewpoints conducted polling in Skeena during the recall campaign. We were informed by Mr. Greg McDade (counsel for the NDP), however, that the polling was of no relevance to our investigation.

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*BC Federation of Labour*

As discussed in Section 6.2.2, the BCFL paid for airline tickets for three volunteers travelling to Skeena, the cost of which was not declared as either a contribution to or an expense of the campaign.

In late January 1998, the three volunteers flew to Terrace at a cost of \$1,045 to the BCFL. We confirmed with the Public Service Employee Relations Commission that one of the volunteers was a government employee at the time. The employee originally filed a claim in January 1998 for time off in lieu of overtime worked. While the individual missed work days in January, it was on September 21, 1998 that the error was discovered and the documents were refiled to reflect the time off as unpaid leave. Adjustments to the individual's salary were made in December 1998.

Since the appropriate adjustments were made, we are satisfied that the government employee was a volunteer to the campaign whose wages are not considered to be a contribution. We are also satisfied that the volunteers paid for their own meals and accommodation and did not attempt to obtain reimbursement.

As discussed in Section 6.2.2, rather than the volunteers themselves, a third party (the BCFL) was responsible for payment of their airfare. Since the payment is not excluded by subsection 111 (4) (b), which states:

- 111 4) The value of the following is not a recall contribution:
- b) property of a volunteer if the property is provided or used in relation to the services of the individual as a volunteer;

the Act requires that it be reported as both a contribution to and an expense of the campaign.

*Telephones*

As in Prince George North, Mr. Giesbrecht's campaign made use of third party telephones. We were informed by Mr. Rowe and Ms. Murray that STA occasionally used the existing telephones in the Terrace Teachers Union and IWA in evenings and on weekends. We

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were further informed by Mr. Rowe that there were no additional costs incurred. It appears that, due to the difficulty in determining the market value of this telephone usage, it was not disclosed to Elections BC as a campaign contribution or expense.

**7.2.2 Effect on Recall Financing Report**

Had the financial agent been aware of the additional items, contributions reported on the financial report for Mr. Giesbrecht should have included an additional \$1,973, comprised of \$928 for Mr. Bridge's airfare and \$1,045 for air travel costs paid by BCFL. Total contributions should have been \$20,492 (\$18,519 + \$1,973).

Expenses subject to the limit should have included an additional \$1,973 for the same items as noted above. Expenses subject to the limit should have totalled \$16,496 (\$14,523 + \$1,973), still within the prescribed limit.

Other expenses should have included an additional \$660 for expenses paid after the recall period (we assume these expenses were actually incurred after the recall period).

**8.0 COMOX VALLEY** The recall process in Comox Valley began in February 1998 when Ms. Gillespie advised Mr. Saint Amour that she would be unable to intervene in a personal matter of his. The official "Recall Gillespie" campaign began shortly thereafter, on February 12, 1998, with Mr. Leslie Disher becoming involved as the campaign manager.

In response, Ms. Gillespie requested that Mr. Erik Eriksson organize the anti-recall campaign, known as Comox Valley Citizens Concerned About Fairness ("CVCCAF").

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**8.1 Proponent –  
Robert Saint  
Amour**

The recall period in Comox Valley ran from February 12, 1998 to April 14, 1998. As prescribed by the Act, “Recall Gillespie” was allowed a recall expense limit of \$29,617.06. The campaign’s financial agent was Ms. Janice Swanson of Bottom Line Bookkeeping Services Inc.

***8.1.1 Recall Financing Report***

The “Recall Gillespie” Recall Financing Report was filed by Ms. Swanson on May 7, 1998. No amendments were filed, although some changes to the report were made by Elections BC.

The report (including changes made by Elections BC) discloses total monetary contributions of \$1,620 (no contributions of property and services were received) and total expenses of \$1,861. Of the total expenses, the report indicates that \$1,292 was subject to the recall expense limit. We noted the following with respect to the report that was filed.

*Contributions*

There were slight differences between the receipts issued for contributions received and the amount deposited to the campaign bank account. It is possible that these differences arose as a result of receipts not having been issued for some items.

*Expenditures*

Prior to Ms. Swanson becoming the financial agent on February 25, 1998, the “Recall Gillespie” campaign used Padgett Business Services (“Padgett”). In May 1998, Padgett issued a memo to the campaign requesting payment of \$231 for services rendered. Because no amendment was filed, this amount was not included as a recall expense.

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We also reviewed invoices provided to us by the Comox Valley Echo and the Comox Valley Record. We identified one invoice for \$519, of which only \$174 appears to have been included as a recall expense. It appears that the remaining \$345 should also have been included in the reported disclosure.

### **8.1.2 Effect on Recall Financing Report**

The contributions reported by the campaign would not require amendment. The increase in total recall expenses of \$576 (\$231 relating to Padgett and \$345 relating to advertising costs) would not have caused the campaign to exceed the expense limit.

## **8.2 MLA – Evelyn Gillespie**

Ms. Gillespie's anti-recall campaign was also subject to the recall expense limit of \$29,617.06. The financial agent for the campaign was Ms. Janice Kovacs.

### **8.2.1 Recall Financing Report**

The Recall Financing Report for Ms. Gillespie's campaign was filed by Ms. Kovacs on May 11, 1998.

The report discloses that total contributions of \$10,517 were received, consisting of \$8,717 in contributions of money and \$1,800 in contributions of property and services. The report also discloses that a total of \$8,619 was spent on the anti-recall campaign, including \$8,239 subject to the recall expense limit. Ms. Kovacs did not report any pre-recall expenditures.

We reviewed the financial documents relating to the anti-recall campaign, provided by Ms. Gillespie through her counsel, Mr. Ian Aikenhead. Based on our review of the documents provided, we did not note any discrepancies in the report filed with respect to contributions and expenses. We did note that the Statement of Assets and Liabilities was incorrectly completed. This, however, would not have had an effect on the disclosure of contributions and expenses.

We also reviewed invoices provided to us by the Comox Valley Echo and the Comox Valley Record. We noted two invoices, totalling



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\$515, which do not appear to have been included in the report as recall expenses.

### **8.2.2 Other Financial Issues**

As with the other constituencies, certain items came to light during our investigation that would have increased the total recall expenses, had these items been disclosed in the report.

#### *Sam Bridge*

Similar to Prince George North and Skeena, the issue of whether Mr. Bridge performed NDP membership or anti-recall work in Comox Valley is relevant to determining whether all of the costs associated with the anti-recall effort were properly disclosed by the campaign in their filings with Elections BC.

Mr. Bridge advised us that he worked for eight weeks in Comox Valley in February, March and April 1998, with his time divided approximately two-thirds to one-third between recall and an NDP membership drive respectively. He advised us that while in Comox Valley, he co-ordinated telephone soliciting and canvassing for recall and organized the production and distribution of leaflets supporting Ms. Gillespie. He informed us that when it became clear that Mr. Saint Amour's petition was not a serious threat to Ms. Gillespie, his focus shifted to supervising the NDP membership drive.

Mr. Bridge informed us that he was paid a salary of approximately \$800 per week by the NDP. He paid his own travel costs from Vancouver and was billeted during his stay. Mr. Bridge provided a copy of the cheque he received from the NDP for \$3,225, representing approximately four weeks' work.

It is apparent from our review of the financial documents provided that Mr. Bridge was involved in the anti-recall campaign. He was paid \$375 by CVCCAF (which was included in their disclosure of recall expenses), which according to Mr. Eriksson, was for half a week's work. The cheque written by CVCCAF included the notation "campaign organizer". Mr. Bridge was reimbursed for expenses he

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incurred on their behalf, primarily for newspaper advertising. In addition, the account information forms prepared by the Comox Valley Record and spanning the period March 13 to April 3, 1998, show the organization contact as “Sam Bridge”.

As well, a document that Mr. Bridge provided to us indicates that he participated in conference calls with NDP strategists in Vancouver and Victoria to discuss fundraising, advertising and the activities of the recall proponent. Mr. Bridge informed us that such conference calls were held every Monday throughout the campaign.

As with the Prince George campaign, the determination of whether Mr. Bridge was a volunteer impacts on the calculation of campaign contributions and expenses. As discussed in Section 6.2.2, in our view, Mr. Bridge is not an employee of the NDP and, accordingly, is not a volunteer to the anti-recall campaign. The financial agent, Ms. Kovacs, informed us that she was unaware of any additional assistance to the campaign.

Given Mr. Bridge’s involvement in the campaign, then, we concluded that approximately two-thirds of his salary paid by the NDP should have been disclosed as both a recall contribution and an expense by the campaign (based on Mr. Bridge’s estimate of his time). The amount that should have been included totals \$2,150 (\$3,225 times 2/3). In addition, because Mr. Bridge was not a volunteer, his automobile mileage to and from Comox Valley should have been reported as both a contribution to and an expense of the campaign. This would total \$114, calculated as approximately 300 kilometres at the standard government rate of \$0.38 per kilometre.

#### *Telephones*

We were informed by Mr. Bridge that in Comox Valley, CVCCAF used telephones in the offices of the BC Government Employees Union (“BCGEU”) both to solicit NDP memberships and to canvas constituents on the recall issues. Mr. Eriksson, however, advised us that the BCGEU office telephones were only used for the NDP membership drive and that recall canvassing was done from the homes of the volunteers.

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Again, if the telephones were, in fact, used for recall purposes, there would be difficulty in determining the market value for such usage.

### **8.2.3 Effect on Recall Financing Report**

Based on the items outlined above, had the financial agent been aware of the additional items, contributions should have included an additional \$2,264 (\$2,150 + \$114) relating to Mr. Bridge's costs. Total contributions should have been \$12,781 (\$10,517 + \$2,264). Expenses subject to the limit should have included an additional \$2,779 (\$2,264 for Mr. Bridge's costs and \$515 for advertising costs), and, therefore, should have totalled \$11,018. Expenses would still have been within the prescribed limit.

**9.0 OTHER ISSUES** During the course of our investigation, several concerns were raised which we address below.

**9.1 Recall Advertising Sponsors** As noted in Section 4.5, the Act allows third parties to sponsor recall advertising to a maximum of \$5,000. Subsection 140 (2) (b) of the Act further specifies that:

- 140 2) ... an individual or organization must not sponsor recall advertising during a recall petition period
- b) in combination with one or more individuals or organizations, or both, such that the total value of the recall advertising sponsored by those individuals and organizations during that period is greater than \$5,000 or a higher amount established by regulation.

Recall Advertising Sponsors are required to register with Elections BC, although the Act does not specify that registration must occur prior to placing recall advertising. For advertising with a value over \$500, the sponsor is required to file a recall advertising disclosure report within 28 days of the end of the recall period. Required disclosure includes:

- the value of the advertising sponsored; and
- the amount of contributions accepted by the sponsor from six months prior to the petition being issued to the end of the recall period.

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Costs incurred by the third-party recall advertising sponsor are not considered to be contributions to the authorized participant. They are not required to be included in the financial reports filed by the authorized participants with Elections BC and therefore do not impact on the prescribed recall expense limit.

#### **9.1.1 Recall Advertising Disclosure Reports**

We performed a general review of the third-party recall advertising disclosure reports in Prince George North, Skeena and Comox Valley. Most sponsored newspaper and radio advertisements. In our review of newspaper advertisements placed by all parties, we did not find a significant amount of advertising that was not disclosed.

One disclosure report indicates that funds were used for a telephone bank which, as noted in Section 6.2.2, was allowed as an advertising expense by Elections BC.

#### **9.1.2 Prince George North**

With respect to sponsors in Prince George North, we found that an individual, in combination with an organization, exceeded \$5,000 in recall advertising sponsored during the recall period. The \$5,000 limit is imposed by subsection 140 (2) (b) of the Act.

Mr. James Hankins, the owner of Sure-Spar Logging Co. Ltd. (“Sure-Spar”) in Prince George was a registered third-party sponsor. Mr. Hankins used \$4,955.91, received from Sure-Spar, to purchase advertising in support of Mr. Harkonen’s recall campaign. Mr. Hankins filed the proper disclosure report with Elections BC detailing the expenditure.

Mr. Harkonen’s campaign also received advertising support from Mr. Khiem R. Lawlor, another registered third-party sponsor. His filing with Elections BC indicates a total expenditure of \$4,510, \$3,500 of which was financed by a contribution from Sure-Spar. Mr. Hankins, then, spent a total of \$8,455.91 directly and indirectly through his company on third-party advertising.

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Mr. Hankins informed us that he discussed his advertising expenditures with both Mr. Lawlor and Mr. Harkonen's financial agent, Ms. Shelley Lawlor. Ms. Lawlor informed us that she discussed third-party advertising with both Ms. Nola Western at Elections BC and Mr. Bruce Hallsor of Crease Harman, counsel to the campaign. We reviewed notes taken by Ms. Western of two conversations she had with Ms. Lawlor on December 8 and 9, 1997, both of which indicate that early on in the campaign, they had concerns with respect to possibly exceeding the recall expense limit. We also received correspondence from Mr. Hallsor, indicating that in their discussions with respect to third-party advertising, he advised Ms. Lawlor that, in his opinion, there were outstanding issues relating to the constitutionality of limiting such advertising. While they did not obtain advance approval from Elections BC, it appears that, based on their various discussions, Mr. Hankins and Ms. Lawlor took the view that Mr. Hankins' sponsorship was allowed under the Act.

Mr. Hankins' sponsorship exceeded the provisions of subsection 140 (2) (b), which limit him to a maximum of \$5,000. Subsection 240 (3) (b) (ii) of the Election Act requires that, for registration of an advertising sponsor:

- 240 3) An application must
  - b) be accompanied by a solemn declaration... that the applicant
    - ii. does not intend to sponsor election advertising for any purpose related to circumventing the provisions of this Act limiting the value of election expenses that may be incurred by a candidate or registered political party.

Although a similar declaration is not specifically required under the Recall and Initiative Act, as discussed in Section 4.6, due diligence to prevent the commission of an offense is required.

### **9.1.3 NDP Constituency Associations**

NDP Constituency Associations were registered third party advertising sponsors in all three recall campaigns under investigation.

Registered Constituency Associations ("Associations") of any political party are allowed to raise funds through tax receipted

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donations whereas MLA anti-recall campaigns cannot issue tax receipts for donations.

Subsection 116 (1) (d) of the Act states:

- 116 1) An individual or organization must not do any of the following:
- d) make a recall contribution with the money, other property or services of another.

The Act, therefore, restricts the ability of a donor to make a contribution to an Association (and receive an income tax receipt) and then request that the Association direct the contribution to a recall campaign.

The Act also appears to address a similar situation with respect to third-party advertising. Section 136 states:

- 136 An individual or organization must not sponsor recall advertising with the property of any other individual or organization or indirectly through any other individual or organization.

A donor cannot therefore, make a contribution to an Association (and receive an income tax receipt) and then request that the Association register as a third-party sponsor, using the contribution to purchase advertising.

This appears to be another section of the Act subject to varying interpretations. A strict interpretation of section 136 would restrict the ability of advertising sponsors to receive contributions. That interpretation, however, directly conflicts with the requirements of the Act to disclose contributions accepted by a third-party sponsor.

#### **9.1.4 Conclusions**

Notwithstanding the Election Act requirements of subsection 240 (3) (b) (ii), it is apparent that third party advertising can easily be used to circumvent the recall expense limit. Rather than accepting contributions to a campaign and then having the funds used for advertising, the authorized participant could request that a contributor instead register with Elections BC as a Recall Advertising Sponsor and purchase an advertisement independently. The cost of this third party advertisement would not be included in the recall

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expenses of the campaign and would not impact on the recall expense limit. Although each individual or organization is limited to a maximum of \$5,000, there is no limit to the number of third party sponsors that can support a particular campaign.

## **9.2 Institutional Involvement**

During the course of our investigation, we noted a lack of clarity in respect of allowable institutional activity.

### **9.2.1 Telephones**

Several unions allowed the anti-recall campaigns to use their office telephones in evenings and on weekends. Strictly speaking, these costs should be reported as expenses of the recall campaign. The determination of the market value of telephone usage would be difficult. If, however, long distance charges or other costs are incurred and paid for by the unions, those costs would have to be disclosed.

Given the extent of communications between Victoria, Vancouver and the recall constituencies, it is possible that some long distance charges were incurred and paid for by the unions, although none were disclosed. In our view, the Act should be more specific with respect to the use of third party telephones and their corresponding disclosure. This is further addressed in Section 10.0.

### **9.2.2 Payment of Expenses**

In several instances, individuals and organizations other than the financial agents paid for recall campaign related expenses which were not reported in the required financial filings. As discussed in Section 6.2.2, unreported payments were made by the NDP for Mr. Bridge's wages, the BCFL for airfare for volunteers and by the BC & Yukon Trades Council for opinion polling.

These undisclosed contributions benefited the anti-recall campaigns in Prince George North and Skeena. While we found no evidence that the financial agents were aware of the payments, it appears that certain NDP and government staff knew of them but did not inform

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the appropriate individuals to have them disclosed in the campaign financial reports.

### **9.2.3 *Secondment of Employees***

Two employers, one whose employees belong to the Hospital Employees Union and the other whose employees belong to the Canadian Union of Public Employees, each had an employee seconded from their regular jobs to the anti-recall campaign in Prince George North. Both employees worked in the pre-recall period and one worked for two weeks during recall. In both cases, the employees continued to receive their salaries from their employers but the unions subsequently reimbursed the employers for those costs.

A written ruling was made on May 4, 1996 by the CEO pursuant to subsection 180 (5) of the Election Act, to the effect that campaign volunteers can be compensated either directly by the union or by their employer, who is then reimbursed by the union. We assume the ruling would also be applicable to the Recall and Initiative Act. We understand, however, that the ruling was made pursuant to a specific request from a union organization. The ruling was not intended to be applied on a general basis; rather, each case was intended to be evaluated individually.

By applying a general interpretation of the CEO's ruling, it appears that the view taken by the anti-recall campaign that these employees were volunteers is appropriate. We understand from Elections BC that the intention of the Act is to both encourage the use of volunteers and to limit expenditures. These two aspects of the Act's intention, however, appear to be contradictory. If the same interpretation was applied to all institutions with an interest in the recall process (including unions, corporations, societies and organizations such as the CTF), there could be unlimited expenditures in this area.

### **9.2.4 *Canadian Taxpayers Federation***

As part of our investigation, we interviewed Mr. Troy Lanigan and Mr. Robert Pauliszyn of CTF to determine the extent of CTF involvement

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in the recall campaigns. We were informed that CTF's purpose was to educate the public about the recall process and to make the Act more user-friendly. They were involved in placing advertisements and producing training manuals from approximately July 1997 to November 1997. CTF, however, was not involved during the recall period, except for occasional correspondence to offer advice.

We were also informed that there was no co-ordinated effort to raise funds for recall and that expenditures by CTF with respect to recall had been made public.

We attended the head office of CTF in Regina, Saskatchewan and reviewed the financial documents with respect to recall. CTF claimed to have spent \$22,895 on the recall issue; we did not identify any significant discrepancies.

The majority of the expenses were incurred in the pre-recall period. Expenses incurred during the recall period related mainly to legal services and media monitoring services. We understand from Mr. Lanigan that CTF engaged Crease Harman to provide legal services to them, distinct from Crease Harman's services provided directly to the recall campaigns. We further understand that the media monitoring services were obtained for CTF's own purposes and that the information was not provided to the campaigns.

The only anomalous item we noted related to the Skeena campaign. CTF spent \$751 in payment of BC Report magazine advertising on behalf of the "Crash Helmut" campaign. As noted in section 7.1.2, this amount was a contribution and should have been disclosed as such on an amended financial report to be filed with Elections BC by the financial agent for the "Crash Helmut" campaign.

The activities of CTF were not reported by the recall campaigns in their financing reports. However, as discussed in Sections 4.3 and 4.4, the Act does not specifically address the issue of whether recall campaigns are required to report contributions received and expenses incurred in the pre-recall period, when a separate entity is involved.

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### 9.3 Restrictions on Making Recall Contributions

As discussed in Section 4.3, the Act imposes certain restrictions on making recall contributions. Specifically, subsection 116 (1) states:

- 116 1) An individual or organization must not do any of the following:
- a) make a recall contribution to an authorized participant except by making it to the financial agent;
  - b) make a recall contribution without disclosing to the financial agent the information required to be recorded under section 120;
  - d) make a recall contribution with the money, other property or services of another;
  - e) make a recall contribution indirectly by giving money, other property or services to an individual or organization
    - i) for that individual or organization to make as a recall contribution, or
    - ii) as consideration for that individual or organization making a recall contribution.

In the course of our investigation, we noted several instances of costs incurred by other parties with an interest in recall that were not disclosed to the financial agents for the campaigns. In most instances, the financial agents and authorized participants informed us that they were unaware of such costs.

If financial agents and authorized participants are unaware of payments made by other parties on behalf of the campaigns, they will be unable to properly disclose the true level of spending, as they are required to do by the Act. They will also be unable to determine whether campaign expenses exceed the prescribed expense limit.

Notwithstanding that the Act restricts incurring expenses to the financial agent, if costs are incurred by another party, the responsibility of disclosing them to the financial agent rests with the contributor. The penalty for exceeding the expense limit, however, is borne by the authorized participants.

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#### 9.4 Voters Lists

The recall proponents identified unreliability of the voters lists used to determine eligibility of individuals wanting to sign the petition as a significant problem in the recall process. Our investigation only considered the Prince George North petition since the petitions for both the Skeena and Comox Valley constituencies were destroyed by the proponents.

There appears to be considerable difficulty in maintaining current information on the voters list. For example, complaints were made of the following:

- individuals were on the list although they had moved out of the constituency;
- individuals who had passed away were still listed; and
- individuals were included on more than one voters list.

The Act attempts to limit participation in the recall process to those who were eligible to vote in the same constituency in the preceding general election. The difficulty, however, occurs with the high level of population movement in the required eighteen-month period between the general election and the time a recall petition application can be made.

Unless changes are made in the method by which voter information is maintained, the voters lists provided by Elections BC for recall purposes will include a large number of ineligible individuals. A recall proponent, therefore, will likely have to obtain more than the required forty percent of eligible voters to account for those that will be discounted due to ineligibility.

Consideration should be given to whether another method of maintaining current information on the voters list can be used.

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- 10.0 RECOMMENDATIONS** Part of our mandate is to provide recommendations with respect to the Act and the Regulations and their application. Our recommendations are as follows:
- 10.1 Investigative Powers** We raised concerns with the respect to the limitations on the CEO's authority to pursue certain records and documents. To address those concerns, we recommend that the Act be amended to provide the CEO with the power to inspect and make copies of any documents, in the possession of any person, which he reasonably believes may be relevant to the investigation.
- We believe that this may be achieved by either of the following methods:
- a) replacing the existing subsection 169 (2) with a general power to inspect and make copies of documents, in the possession of any person, which the CEO reasonably believes may be relevant to an investigation under subsection 169 (1); or
  - b) adding the following new subparagraph (e) to the existing subsection 169 (2):
    - e) who the CEO reasonably believes is in possession of documents which may be relevant to an investigation under subsection (1).
- 10.2 Issuance of Recall Petitions** In order to eliminate the possibility of effectively increasing the recall expense limit for a given campaign, the CEO should insure that no other recall petitions are issued during the same recall period in the same electoral district.
- 10.3 Disclosure of Recall Contributions** The requirements with respect to disclosure of recall contributions received by an authorized participant are subject to misinterpretation. There is a need for clarification of the requirements. In order to capture all potential recall contributions, it may be necessary to specify that all contributions related to the recall campaign must be disclosed, regardless of the period in which they were received.

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**10.4 Assistant  
Financial Agents**

The appointment of multiple assistant financial agents allows the opportunity for the primary financial agent to lose control of the financial issues and transactions, since all of those appointed are given the same powers and duties as the financial agent with respect to accepting contributions and incurring expenses. Consideration should be given to restricting the number of assistant financial agents.

Subsections 186 (1) (a) and 193 (3) of the Election Act allow individuals authorized in writing by the financial agent to accept contributions and incur expenses on behalf of the campaign. Consideration should be given to extending these provisions to the Recall and Initiative Act. Such authorizations should be limited in number and should be required to be filed with Elections BC.

**10.5 Advertising**

Consideration should be given to changes in the Act which would clearly delineate what constitutes advertising in order to prevent the abuse of sponsorship. Currently, for example, Elections BC allows the interpretation of third-party advertising to include telephone banks used for solicitation. We have seen that telephone solicitation is an integral part of the campaign, conducted by what would normally be considered to be campaign workers. In our view, this is clearly distinguishable from a third party advertisement in the media.

**10.6 Recall  
Advertising  
Sponsor  
Declaration**

The Election Act currently requires a sponsor to declare that the sponsorship of advertising is not intended to circumvent the expense limits prescribed by the Act. Consideration should be given to providing for a similar declaration in the Recall and Initiative Act.

**10.7 Contributions to  
Recall  
Advertising  
Sponsors**

The provisions of the Act are currently susceptible to misinterpretation with respect to contributions to recall advertising sponsors. The Act's restriction of indirectly sponsored advertising contradicts its allowance of contributions to sponsors. The Act should clarify acceptable practices with respect to advertising sponsorship.

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# Investigation into the Recall Campaigns in Prince George North, Skeena and Comox Valley

## SCHEDULES AND APPENDICES

### Schedule 1

Revised Statement of Income  
Authorized Participant: Pertti Harkonen  
Prince George North Recall Petition No. R97001 – PRN

### Schedule 2

Revised Statement of Expenses  
Authorized Participant: Pertti Harkonen  
Prince George North Recall Petition No. R97001 – PRN

### Schedule 3

Revised Statement of Income  
Authorized Participant: Hon. Paul Ramsey, MLA  
Prince George North Recall Petition No. R97001 – PRN

### Schedule 4

Revised Statement of Expenses  
Authorized Participant: Hon. Paul Ramsey, MLA  
Prince George North Recall Petition No. R97001 – PRN

**INVESTIGATION INTO THE RECALL CAMPAIGNS  
IN PRINCE GEORGE NORTH, SKEENA AND COMOX VALLEY**

**Revised Statement of Income**  
**Authorized Participant: Pertti Harkonen**  
**Prince George North Recall Petition No. R97001 - PRN**

	<u>As Filed</u>	<u>Adjustments</u>	<u>Adjusted</u>
Income:			
Total recall contributions:			
Contributions of money	\$14,026	\$3,456 [1]	\$17,482
Contributions of property, services or discounts	306	6,819 [2]	7,125
Contributions through loans and debt	<u>16,125</u>	<u>                    </u>	<u>16,125</u>
Total recall contributions	30,457	10,275	40,732
Total amount of gross fundraising income not reported as recall contributions	0		0
Interest income	0		0
Other income	<u>0</u>	<u>                    </u>	<u>0</u>
Total income	<u>\$30,457</u>	<u>\$10,275</u>	<u>\$40,732</u>

**Notes:**

[1] Contribution relates to advertising sponsorship provided by Mr. James Hankins.

[2] Contribution relates to a "courtesy discount" provided by Crease Harman.

**INVESTIGATION INTO THE RECALL CAMPAIGNS  
IN PRINCE GEORGE NORTH, SKEENA AND COMOX VALLEY**

**Revised Statement of Expenses**

**Authorized Participant: Pertti Harkonen**

**Prince George North Recall Petition No. R97001 - PRN**

	As Filed				Adjustments				Adjusted			
	Recall Expenses Subject to Limits	Recall Expenses Not Subject to Limits	Other Expenses	Total Expenses	Recall Expenses Subject to Limits	Recall Expenses Not Subject to Limits	Other Expenses	Total Expenses	Recall Expenses Subject to Limits	Recall Expenses Not Subject to Limits	Other Expenses	Total Expenses
Expenses:												
Accounting services				\$0				\$0	\$0	\$0	\$0	\$0
Bank charges	62		50	112				0	62	0	50	112
Brochures				0				0	0	0	0	0
Fees charged by Chief Electoral Officer		50		50				0	0	50	0	50
Authorized participant's personal expenses		1,659		1,659				0	0	1,659	0	1,659
Furniture and equipment purchase	319			319				0	319	0	0	319
Insurance and utilities				0				0	0	0	0	0
Interest		1,149	284	1,433				0	0	1,149	284	1,433
Legal services		4,890		4,890		3,136 [1]	3,683 [2]	6,819	0	8,026	3,683	11,709
Media advertising	18,478			18,478	3,456 [3]			3,456	21,934	0	0	21,934
Office rental	600			600				0	600	0	0	600
Office supplies, stationary	1,550			1,550				0	1,550	0	0	1,550
Postage	226			226				0	226	0	0	226
Printing of petition sheets				0				0	0	0	0	0
Professional services				0				0	0	0	0	0
Research and polling				0				0	0	0	0	0
Salaries and benefits	2,688			2,688				0	2,688	0	0	2,688
Signs	2,081			2,081				0	2,081	0	0	2,081
Telecommunications	514			514				0	514	0	0	514
Travel				0				0	0	0	0	0
Workshop and meeting fees and rentals				0				0	0	0	0	0
Total cost of fundraising functions where earned net income				0				0	0	0	0	0
Total net losses of fundraising functions which incurred net losses during the recall petition period				0				0	0	0	0	0
Other expenses - photocopy petition sheets		430		430				0	0	430	0	430
Total expenses	<u>\$26,518</u>	<u>\$8,178</u>	<u>\$334</u>	<u>\$35,030</u>	<u>\$3,456</u>	<u>\$3,136</u>	<u>\$3,683</u>	<u>\$10,275</u>	<u>\$29,974</u>	<u>\$11,314</u>	<u>\$4,017</u>	<u>\$45,305</u>
Prescribed recall expense limit									27,442			
Excess (shortfall in) expenses									<u>\$2,532</u>			

**Notes:**

- [1] Expense relates to "courtesy discount" provided by Crease Harman during the recall period.
- [2] Expense relates to "courtesy discount" provided by Crease Harman prior to (\$299), and after (\$3,384), the recall period.
- [3] Expense relates to advertising sponsorship provided by Mr. James Hankins.



**INVESTIGATION INTO THE RECALL CAMPAIGNS  
IN PRINCE GEORGE NORTH, SKEENA AND COMOX VALLEY**

**Revised Statement of Income**

**Authorized Participant: Hon. Paul Ramsey, MLA**

**Prince George North Recall Petition No. R97001 - PRN**

	<u>As Filed</u>	<u>Adjustments</u>	<u>Adjusted</u>
Income:			
Total recall contributions:			
Contributions of money	\$35,232	\$5,710 [1]	\$40,942
Contributions of property, services or discounts	703	608 [2]	1,311
Contributions through loans and debt	<u>0</u>		<u>0</u>
Total recall contributions	35,935	6,318	42,253
Total amount of gross fundraising income not reported as recall contributions	0		0
Interest income	2		2
Other income	<u>0</u>		<u>0</u>
Total income	<u>\$35,937</u>	<u>\$6,318</u>	<u>\$42,255</u>

**Notes:**

[1] Contribution is comprised of \$835 relating to costs of Mr. Sam Bridge (excluding his contribution of mileage), \$1,994 relating to the Strategic Communications polling and \$2,881 relating to airfare paid for by the BC Federation of Labour.

[2] Contribution relates to mileage costs of Mr. Bridge.

**INVESTIGATION INTO THE RECALL CAMPAIGNS  
IN PRINCE GEORGE NORTH, SKEENA AND COMOX VALLEY**

**Revised Statement of Expenses**

**Authorized Participant: Hon. Paul Ramsey, MLA**

**Prince George North Recall Petition No. R97001 - PRN**

	As Filed				Adjustments				Adjusted			
	Recall Expenses Subject to Limits	Recall Expenses Not Subject to Limits	Other Expenses	Total Expenses	Recall Expenses Subject to Limits	Recall Expenses Not Subject to Limits	Other Expenses	Total Expenses	Recall Expenses Subject to Limits	Recall Expenses Not Subject to Limits	Other Expenses	Total Expenses
Expenses:												
Accounting services				\$0				\$0	\$0	\$0	\$0	\$0
Bank charges	8		23	31				0	8	0	23	31
Brochures	1,394		321	1,715				0	1,394	0	321	1,715
Fees charged by Chief Electoral Officer				0				0	0	0	0	0
Authorized participant's personal expenses				0				0	0	0	0	0
Furniture and equipment purchase	338		120	458				0	338	0	120	458
Insurance and utilities	382		182	564				0	382	0	182	564
Interest				0				0	0	0	0	0
Legal services				0				0	0	0	0	0
Media advertising	12,887		8,171	21,058				0	12,887	0	8,171	21,058
Office rental	2,477		1,054	3,531				0	2,477	0	1,054	3,531
Office supplies, stationary	357		151	508				0	357	0	151	508
Postage	1,146		139	1,285				0	1,146	0	139	1,285
Printing of petition sheets				0				0	0	0	0	0
Professional services	3,809			3,809				0	3,809	0	0	3,809
Research and polling				0	1,994 [1]			1,994	1,994	0	0	1,994
Salaries and benefits				0	835 [2]			835	835	0	0	835
Signs				0				0	0	0	0	0
Telecommunications	1,614		527	2,141				0	1,614	0	527	2,141
Travel				0	3,489 [3]			3,489	3,489	0	0	3,489
Workshop and meeting fees and rentals			67	67				0	0	0	67	67
Total cost of fundraising functions where earned net income				0				0	0	0	0	0
Total net losses of fundraising functions which incurred net losses during the recall petition period				0				0	0	0	0	0
Other expenses - photocopy petition sheets				0				0	0	0	0	0
Total expenses	<u>\$24,412</u>	<u>\$0</u>	<u>\$10,755</u>	<u>\$35,167</u>	<u>\$6,318</u>	<u>\$0</u>	<u>\$0</u>	<u>\$6,318</u>	<u>\$30,730</u>	<u>\$0</u>	<u>\$10,755</u>	<u>\$41,485</u>
Prescribed recall expense limit									<u>27,442</u>			
Excess (shortfall in) expenses									<u>\$3,288</u>			

**Notes:**

[1] Expense relates to Strategic Communications polling.

[2] Expense relates to costs of Mr. Sam Bridge, excluding his mileage contribution.

[3] Expense relates to mileage of Mr. Bridge (\$608) and airfare paid for by the BC Federation of Labour (\$2,881).