

March 24, 2022

EBC File: 15110-50/2021/504

David Goldsmith
Financial Agent, BC Liberal Party

Via email: contact@bcliberals.com

Dear David Goldsmith:

Re: Administrative Monetary Penalty under the *Election Act*

I am writing further to recent contact you have had with Elections BC compliance and enforcement personnel regarding a contravention of s. 185.02(1) of the *Election Act*. This letter comprises the Determination under Part 4 of Policy 12.1: Application of Administrative Monetary Penalties, for investigation 2021-504 related to s. 185.02(1) of the *Election Act*, which states:

185.02 (1) *No later than 7 days before the date of a specified fundraising function, the organization or individual who plans to hold the specified fundraising function must provide to the chief electoral officer, and to the financial agent of the political party, candidate, leadership contestant, nomination contestant or constituency association on whose behalf the specified fundraising function will be held, the following information:*

(a) *the name of every member of the Executive Council, parliamentary secretary or leader of the political party who is scheduled to attend the specified fundraising function;*

(b) *the amount of the charge per individual for the specified fundraising function;*

(c) *the date and time of the specified fundraising function;*

(d) *if the specified fundraising function is held*

(i) *in or on premises that are used as a private residence, the address of the premises and the name of the person who usually uses the premises as a private residence, and*

(ii) *in or on premises other than premises that are used as a private residence, the usual name of the premises;*

(e) *the usual name of the political party, candidate, leadership contestant, nomination contestant or constituency association that is*

holding the specified fundraising event or on whose behalf the specified fundraising event is being held.

Background:

This matter relates to the BC Liberal Party being non-compliant with section 185.02(1) because of its late filing. Elections BC's Investigations team provided you with the investigation report and recommendations for a penalty amount range of \$200-\$400 on March 2, 2022. At that time, you were given an Opportunity to be Heard in accordance with Elections BC's Policy 12.1: Application of Administrative Monetary Penalties. On March 9, 2022, we received notice from Controller Kevin Tang that you had waived the Opportunity to be Heard, and accepted the findings of the investigation.

A summary of the findings from the Investigation Report is as follows:

On January 8, 2020, the BC Liberal Party filed a Specified Fundraising Function (Spec-FF) form with Elections BC for the event titled Spring Celebration with MLA Teresa Wat, which was held on January 13, 2020. Section 185.02(1) of the Election Act (the Act) requires that an organization or individual planning to hold a Spec-FF, provide notice of that event to Elections BC at least seven days before the event is to be held. Because the event was held on January 13, 2020, the BC Liberal Party was required to provide the notice on or before January 6, 2020.

Specified fundraising functions are events:

- *Attended by the leader of a major political party, a parliamentary secretary, or a member of the Executive Council, and*
- *held to raise funds for a major political party or candidate, leadership contestant or constituency association representing a major political party.*
 - *The Act defines a major political party as a party that has a member, or is eligible to appoint a member, to the Election Advisory Committee.*

It appears that the BC Liberal Party may have been non-compliant with section 185.02(1) of the Act because of its late filing. Because the BC Liberal Party would be subject to a monetary penalty under section 220.03 if they were determined to be non-compliant with section 185.02(1), I commenced an investigation under part 1 section 1, of Policy 12.1: Application of Administrative Monetary Penalties (Policy 12.1), regarding the Spring Celebration with MLA Teresa Wat Spec-FF.

At the conclusion of my investigation, I determined that it was likely that the BC Liberal Party did not comply with section 185.02 of the Election Act, and therefore prepared the investigation reports required by part 1, section 7(a) of Policy 12.1. For the reasons explained in the narrative below, I suggest that the Enforcement Adjudicator assess a penalty of between \$300 and \$600 against the BC Liberal Party under section 220.03 of the Election Act.

Determination

I am satisfied that I have the authority to consider the matter and make a decision pursuant to ss 10, 12(3), 185.02(1) and 220.03 of the Act. In making my decision, I also considered the Act s. 1 definition of Specified Fundraising Function and Elections BC's Policy 12.1: Application of Administrative Monetary Penalties.

Having reviewed the file I am satisfied that the Party held a Specified Fundraising Function due to the attendance of then BC Liberal Party leader Andrew Wilkinson at the January 13, 2020 Spring Celebration with Teresa Wat, which was a fundraising event for the Party. Under s. 185.02 of the Act, the Party was required to provide Elections BC with at least seven days notice of the event. The Party failed to comply when it provided the notice on January 8, 2020, less than the required seven days' notice. I conclude that the Party contravened s. 185.02(1) of the Act and that an Administrative Monetary Penalty under s. 220.03 is warranted.

Penalty Calculation

I reviewed the enforcement file and factors which may influence the amount of the penalty.

- The Specified Fundraising Event raised a net benefit to the Party of \$29,708.15, making it a significant fundraising event.
- It does appear that the BC Liberal Party realized that they should be providing notice of the event and did try to comply, but missed the seven day statutory requirement.
- I am satisfied that the contravention was inadvertent.
- There is no repetitive pattern to the contravention.
- The BC Liberal Party has been entirely forthright and cooperative with Elections BC investigators and has taken steps to prevent a similar contravention in the future.
- The BC Liberal Party, upon being apprised of the investigation and potential Administrative Monetary Penalty, waived their right to be heard.
- The contravention is of a technical nature, and I conclude that it is unlikely to have had any effect on any political contest.
- I reviewed recommendations from Elections BC investigators.

Conclusion

Considering the above, and the admitted non-compliance with 185.02(1) of the Act, I have decided that the BC Liberal Party be subject to a \$300 Administrative Monetary Penalty under s. 220.03 of the *Election Act*.

In accordance with Elections BC's Application of Policy 12.1: Application of Administrative Monetary Penalties, the monetary penalty will be applied, and this determination published on Elections BC's website (as noted in Part 7) 38 days after the date you are served this determination. If you seek court relief under the Act, publication will be suspended until the completion of that process.

You have a further 30 days following publication and application of the monetary penalties to either pay the penalty or enter into a payment agreement with Elections BC to pay the penalty over the period of one year. Payment(s) can be made by cheque to the Minister of Finance, C/O Elections BC at the address below.

Mailing Address:

PO Box 9275 Stn Prov Govt
Victoria, BC
V8W 9J6

Physical Location:

Suite 100 – 1112 Fort Street

Victoria, BC

250-387-5305

Sincerely,

A handwritten signature in black ink, appearing to be 'C.S. Porter', with a long horizontal stroke extending to the right.

Charles S. Porter

Deputy Chief Electoral Officer

Electoral Finance and Operations

cc: Kevin Tang, Controller