

July 7, 2021

EBC File: 15110-50/2021/506

Jane Thornthwaite  
Candidate, 2020 Provincial General Election

Via email: [REDACTED]

Dear Jane Thornthwaite:

**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. 231 of the *Election Act*. This letter comprises the Determination under Part 4 of the Application of Administrative Penalties Policy 12.1, for investigation 2020--014 related to s. 231 of the *Election Act*, which states:

- 231 (1) Subject to subsection (2), an individual or organization must not sponsor, or publish, broadcast or transmit to the public, any election advertising unless the advertising;*
- (a) identifies the name of the sponsor or, in the case of a candidate, the name of the candidate's financial agent or the financial agent of the registered political party represented by the candidate,*
  - (b) if applicable, indicates that the sponsor is a registered third party sponsor under this Act,*
  - (c) indicates that it was authorized by the identified sponsor or financial agent, and*
  - (d) gives a telephone number or mailing address at which the sponsor or financial agent may be contacted regarding the advertising.*

**Background**

This matter relates to campaign flyers distributed without authorization statements during the 2020 provincial general election. Elections BC's Investigations team provided you with the investigation report and recommendations for a penalty amount of \$50 on June 7, 2021. At that time, you were given an Opportunity to be Heard in accordance with Elections BC's Application of Administrative Policies Policy. On June 8, 2021 we received notice from your Financial Agent Kristy James that you had waived the Opportunity to be Heard, and accepted the findings of the investigation. We received confirmation of that waiver from you on June 9, 2021.

A summary of the investigation findings are as follows:

*The campaign for British Columbia Liberal Party candidate Jane Thornthwaite produced 16,898 campaign flyers for distribution through Canada Post that did not contain authorization statements. When the campaign team identified the omission, they were able to recover all but approximately 100 of the flyers. These 100 flyers were delivered to constituents in the North Vancouver-Seymour electoral district.*

.../2

*On completion of this investigation, it appears that the delivery of the flyers missing the statement contravened s. 231 of the Election Act. For the reasons explained in the narrative below, we suggest that the Enforcement Adjudicator assess a penalty of \$50 against the Thornthwaite campaign, under s. 231.02 of the Election Act.*

### **Determination**

I have carefully reviewed this matter and determined that a penalty is warranted.

In making my decision I reviewed the *Election Act*, images of the advertising, staff notes and investigation notes. You were a British Columbia Liberal Party candidate in Vancouver-Seymour Electoral District during the 2020 provincial general election. Due to an apparent error your campaign did not include authorization statements with nearly 17,000 flyers which were printed and for which distribution was initiated. The mistake was realized by your campaign and all but approximately 100 of the flyers were retrieved before they could be delivered. However approximately 100 were delivered. The matter was reported directly to Elections BC by Kevin Tang, Controller for the British Columbia Liberal Party.

In considering this matter I reviewed the *Election Act*, particularly ss 231 and 231.02 relating to advertising requirements and related administrative monetary penalty provisions. I have also satisfied myself that my appointment as Deputy Chief Electoral Officer under s. 10 and my powers under s. 12(3) of the *Election Act* provide me with authority to make a decision on an administrative monetary penalty. I have also reviewed and considered internal policy established by the Chief Electoral Officer (Policy 12.1) relating to administrative monetary penalties which establishes suggested criteria for consideration by decision makers.

I reviewed the advertising images contained in the file and noted, consistent with the self-reported complaint and our subsequent investigation that the flyers failed to include the required authorization statement. This failure to include the authorization statement is contrary to the provisions of *Election Act* s. 231. I reviewed and considered potential impacts of this non-compliance and found the matter to be minor in its seriousness given that only approximately 100 of the flyers were circulated and they were obviously from the Thornthwaite campaign. I have further reviewed the fact that the British Columbia Liberal Party reported the matter itself and went to extraordinary efforts to try to retrieve all materials and to mitigate the situation. The campaign has also been cooperative throughout the investigation. I also note again that the campaign waived an opportunity to be heard during the decision-making process relating to a penalty.

### **Penalty Calculation**

Elections BC decision makers may consider policy guidance when making a determination of an administrative monetary penalties, but are not bound by policy. The policy guidance assists us with ensuring that adjudication decisions consider relevant factors and are reasonably consistent, predictable, and objective.

Policy guidance provides a framework for Elections BC decision-makers to consider matters including:

- the facts of matter at hand;
- egregiousness of behavior;
- repetition of behavior;
- cooperation of the subject;
- prevention;
- previous similar penalties; and
- the *Election Act* requirement for a minimum administrative monetary penalty.

**Conclusion**

Considering the above, taking into consideration the admitted non-compliance with s.231 of the *Election Act* and mitigating factors, I have decided that you, Jane Thornthwaite should be subject to a \$50 Administrative Monetary Penalty under s. 231.02 of the *Election Act*.

In accordance with Elections BC's Application of Administrative Monetary Penalties Policy, 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,



Charles S. Porter  
Deputy Chief Electoral Officer  
Electoral Finance and Operations