

December 5, 2023

EBC File: 15110-30/2023/187

Kylie Coates
Candidate for Electoral Area Director, Capital Regional District

Via email

ENFORCEMENT NOTICE

Dear Kylie Coates:

This letter addresses a contravention under the *Local Elections Campaign Financing Act* (LECFA) and comprises an Enforcement Notice under Part 2 of Policy 36.3 Administration of Monetary Penalties under the *Local Elections Campaign Financing Act*.

Elections BC provided you with a copy of the Investigator's report into this matter, which included his preliminary findings. You did not provide any additional information you wished me to consider.

Background:

You were a candidate for Electoral Area Director of the Capital Regional District in the 2022 General Local Elections. For the 2022 General Local Elections, the pre-campaign period started July 18, 2022, and ended September 16, 2022, and the campaign period started September 17, 2022 and ended on General Voting Day, on October 15, 2022.

On April 19, 2023, Elections BC was made aware that there were signs without a valid authorization statement posted on August 11, 2022. The signs had a picture of local trustee candidate, and clearly opposed the candidate's election. The signs did not identify you as a candidate, or as the sponsor of the advertisement.

In an article published on August 17, 2022 in the Gulf Islands Driftwood, you acknowledged that you posted the signs and spent \$600 on them.

Legislation:

Section 44 (1) of the *Local Elections Campaign Financing Act* requires that a candidate who sponsors election advertising ensure that the advertisement does the following:

- identifies the financial agent,
- indicates that it was authorized by the financial agent,
- gives a BC telephone number, an email address or a BC mailing address at which the financial agent may be contacted regarding the advertising

Section 7(1) of LECFA defines election advertising as:

*7 (1) Subject to subsection (2) and any applicable regulations, election advertising is the transmission to the public by any means,
(a) during the campaign period, of any of the following:*

- (i) a communication that promotes or opposes, directly or indirectly, the election of a candidate or an elector organization that is endorsing a candidate, including a communication that takes a position on an issue with which the candidate or elector organization is associated;*
- (ii) assent voting advertising that is election advertising under section 8 (3) [assent voting advertising that is election advertising];*
- (iii) any other communications prescribed by regulation, and*
- (b) during the pre-campaign period for a general local election, of any of the following:*
 - (i) a communication that promotes or opposes, directly or indirectly, the election of a candidate or an elector organization that is endorsing a candidate;*
 - (ii) assent voting advertising that is election advertising under section 8 (3);*
 - (iii) any other communications prescribed by regulation.*

Section 10 of LECFA sets out the pre-campaign and campaign periods for a local election:

- 10 (1) The election period in relation to an election is the period that*
- (a) begins, as applicable,*
 - (i) in the case of an election that is part of a general local election, at the start of the calendar year in which the election is held,*
 - (ii) in the case of a by-election, on the day the local authority office that is to be filled by the by-election becomes vacant, or*
 - (iii) in the case of any other election, on the date specified by or determined under the regulations, and*
 - (b) ends at the beginning of the campaign period for the election.*
- (1.1) The pre-campaign period in relation to a general local election is the period that*
- (a) begins on the eighty-ninth day before general voting day for the election, and*
 - (b) ends on the twenty-ninth day before general voting day for the election.*
- (2) The campaign period in relation to an election is the period that*
- (a) begins on the twenty-eighth day before general voting day for the election, and*
 - (b) ends, as applicable,*
 - (i) in the case of an election by voting, at the close of general voting for the election, or*
 - (ii) in the case of an election by acclamation, at the end of general voting day.*
- (3) The assent voting proceedings period in relation to non-election assent voting is the period that*
- (a) begins on the twenty-eighth day before general voting day for the assent voting, and*
 - (b) ends at the close of general voting for the assent voting.*

Analysis and Determination:

I have carefully reviewed the Investigator's report, and I concur with their preliminary conclusions. The advertisements did not provide an authorization statement as required in section 44(1) of LECFA.

I find that the advertisements that your campaign sponsored during the pre-campaign period contravened section 44(1) of LECFA.

Monetary Penalty:

Because of my finding above, s. 68.25 of LECFA requires me to issue an administrative monetary penalty of up to \$5,000 against you.

In assessing this penalty, I note the following:

- The advertisements did not indicate in any way who had sponsored it and provided no contact information for you as the sponsor.
- Because the sign opposed another candidate, and did not identify you as a candidate, an observer of the advertisement would not reasonably have concluded that you had sponsored it.
- You have previously run as a candidate for councillor in the general local elections.

Based on these considerations, I make the following finding:

- Kylie Coates contravened section 44(1) of LECFA and must pay a penalty of \$400 to the Chief Electoral Officer of B.C., under section 68.25(2)(a) of that act.

Review/Court Relief:

You may request a review of this determination by an Adjudicator. A request must be made in writing and must be received by the Investigator within 14 days after the date on which the Subject received the Enforcement Notice. The request must state the grounds on which the request for review is made. The Adjudicator is not bound by the Investigator's determinations or reasons in this Enforcement Notice and must consider the matter afresh and with an open mind.

You may also seek relief from the BC Supreme Court from the monetary penalties under section 68.26 of LECFA. You may wish to seek legal advice prior to requesting relief.

Penalty Payment:

Under Policy 36.3 Administration of Monetary Penalties under the *Local Elections Campaign Financing Act*, you have 40 days from today's date to pay the monetary penalties. Payments can be made by cheque to the Minister of Finance, C/O Elections BC at the address below:

Mailing Address:

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

Physical Location:

Suite 100 – 1112 Fort Street
Victoria, BC
250-387-5305

Sincerely,



Adam Barnes
Director of Investigations