

March 5, 2024

EBC File: 15110-30/2023/166

Tracy Elke
Candidate for Councillor of Pitt Meadows

Via email

ENFORCEMENT NOTICE

Dear Tracy Elke:

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 responded to the report to indicate that you had provided all of the requested information.

Background:

You were a candidate for councillor of Pitt Meadows in the 2022 General Local Elections and acted as your own financial agent.

On January 9, 2023, you filed a disclosure statement with Elections BC indicating that you received a contribution of \$1,000 from Murray Elke on October 21, 2022. Murray Elke has a residential address in Winnipeg, Manitoba and is therefore not eligible to make a campaign contribution.

Elections BC's Electoral Finance Audit and Assessment team emailed you on January 26, 2023 to advise you of the prohibited contribution and to explain the requirement to return the contribution. You filed an amended disclosure statement on February 13, 2023 indicating that the prohibited contribution had been returned.

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

You confirmed with the Investigator by email that the prohibited contribution had been returned.

Legislation:

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

LECFA defines an eligible individual as an individual who is a resident of British Columbia, and a Canadian citizen or a permanent resident.

Section 68.14 of LECFA explains the penalty for non-compliance with section 27:

68.14 (1) *Within 7 days of the BC chief electoral officer making a determination of non-compliance with section 27 [restrictions in relation to campaign contributions] by a candidate, an elector organization, a financial agent or an individual authorized by the financial agent under section 27 (1) (b), the BC chief electoral officer must notify the candidate, elector organization, financial agent or individual authorized by the financial agent under section 27 (1) (b) of the non-compliance and the related penalty.*

(2) *Subject to a court order for relief under section 68.18 [court relief powers in relation to campaign contributions], if the BC chief electoral officer gives notice under subsection (1) of this section, the candidate, elector organization, financial agent or individual authorized by the financial agent under section 27 (1) (b) must pay to the BC chief electoral officer,*

(a) in the case of non-compliance with section 27 (1), (1.01) (a), (2) or (3), a penalty in an amount of up to 2 times the amount of the campaign contribution, as determined by the BC chief electoral officer, or

(b) in the case of non-compliance with section 27 (1.01) (b), a penalty in an amount of up to 2 times the amount by which the campaign contribution exceeds the applicable contribution limit, as determined by the BC chief electoral officer.

Analysis and Determination:

I have carefully reviewed the Investigator's report, and I concur with their preliminary conclusions. The campaign contribution received from Murray Elke was not from an eligible individual and was accepted in contravention of section 27 of LECFA.

Monetary Penalty:

Because of my finding above, section 68.14 of LECFA requires me to issue an administrative monetary penalty of up to double the amount of the prohibited contribution. The maximum monetary penalty in this case is \$2,000.

In assessing this penalty, I note the following:

- Accepting a prohibited contribution gives a candidate an advantage in that the candidate did not need to seek a contribution of that amount from an eligible source, saving the candidate time during a busy campaign.
- Once contacted by Elections BC, you cooperatively brought yourself into compliance.
- Your campaign has been cooperative with our investigation.
- Your campaign returned the prohibited contribution, as required by s. 28 of LECFA.
- You have previously run as a candidate for councillor of Pitt Meadows in the general local elections.
- You have not previously been the subject of a monetary penalty under LECFA.

Based on these considerations, I make the following finding:

- Tracy Elke contravened section 27 (1.01) (a) of LECFA, and must pay a penalty of \$450 to the Chief Electoral Officer of B.C., under section 68.14(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 68.18 of LECFA. You may wish to seek legal advice prior to requesting relief.

Penalty Payment:

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

Mailing Address:

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

Physical Location:

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

Sincerely,

A handwritten signature in black ink, appearing to read 'Adam Barnes', with a stylized flourish at the end.

Adam Barnes
Director of Investigations