

August 4, 2023

Tim Johnson
Provincial Secretary
Manitoba NDP
803-294 Portage Avenue
Winnipeg, MB R3C 0B9

Dougald Lamont, Jon Gerrard, Cindy Lamoureux
c/o Scott Gray
Gray and Company
301 – 386 Broadway Ave
Winnipeg, MB R3C 3R6

Re: Legislative Assembly Allowance complaint.

In July of 2021, Mr. Johnson sent me a letter expressing a concern that advertisements placed by three liberal MLA's might be in breach of *The Election Financing Act* ("EFA"). The ads had been funded by the MLA's out of an allowance given to each member of the legislative assembly pursuant to *The Legislative Assembly Act* ("LAA"). Mr. Johnson's concern was twofold. First, he felt that if money received from the government was used to pay for the ads, that would constitute a contribution to the MLA's by the government, which would be prohibited by the EFA because the EFA requires all contributions to be made by individuals. Secondly, Mr. Johnson noted that the ads did not contain a notice that they had been authorized by the MLA's which he believed was required by the EFA.

I arranged for Mr. Johnson's complaint to be investigated and based on that investigation and my interpretation of the EFA, I have concluded that the ads in question were not in breach of the EFA.

Was the legislative allowance a contribution?

Section 33 of the EFA provides that contributions can only be made by individuals. If the legislative allowance used to purchase an ad was a contribution by the government, it would be an illegal one.

Section 32(1) of the EFA reads:

The following are contributions when provided to a recipient or for a recipient's benefit:

(a) money provided without compensation (a "monetary contribution"),

(b) property or services provided free of charge or at less than market value (a "non-monetary contribution")

A recipient is defined in section 31:

In this Part, "**recipient**" means a registered party, a candidate, a constituency association or a leadership contestant.

The advertisements do not claim to be sponsored by the Liberal Party but by:

Your Manitoba Liberal MLA's,

Dougald Lamont

Dr. Jon Gerrard

Cindy Lamoureux

It appears, therefore, that the ads were not placed by the party, or by a constituency association. There was no leadership contest ongoing at that time, so the only remaining consideration is whether the three MLA's were candidates.

Elections Manitoba is notified when candidates are nominated. Its records show that none of these three MLA's were candidates at time these ads ran. That being so, they were not recipients, and so could not have received a contribution.

Did the ads require authorization?

Section 61 of the EFA provides that advertising must be authorized, but again only if it is placed by a party, a constituency association, a candidate or a leadership contestant. Because these MLA's were not candidates, the issue of authorization does not arise.

In my opinion, therefore, there was no contribution or required authorization, because these MLA's had not yet been nominated as candidates. That is not to say that the use of a legislative allowance by an MLA would be in breach of the EFA if the MLA had been nominated as a candidate, but only that that question does not arise in this case.

Bill Bowles



Commissioner of Elections for Manitoba