

Report on the Investigation into Breaches of the *Elections Act*

Northside Westmount Electoral District

April 27, 2018

Introduction

On May 9th, 2017, Mr. William Burchell informed Elections Nova Scotia (ENS) via telephone that money raised on behalf of three candidates was not transferred in accordance with the *Elections Act (the Act)*. Mr. Burchell advised that he was a lawyer and was calling on behalf of his friend, Mr. Phillip Murray who, for an extended period of time, has been in possession of a sum of money in the amount of \$42,000 that rightfully belongs to the Northside Westmount (formerly Cape Breton North) Liberal Electoral District Association. At the time of the call, ENS was in the midst of delivering the 40th Provincial General Election. As such, ENS advised and Mr. Burchell agreed, that further discussion on this matter would continue after the wrap up of the election.

Subsequently, the Chief Electoral Officer (CEO) commenced an investigation.

Acronyms

CEO	Chief Electoral Officer
ENS	Elections Nova Scotia
EDA	Electoral District Association
the Act	The <i>Elections Act</i>
PGE	Provincial General Election

Background

On May 9th, 2017, William Burchell contacted ENS by telephone and provided a summary of details regarding a bank account held in trust and associated with the Northside Westmount (formerly Cape Breton North) Liberal Electoral District Association (EDA). Mr. Burchell reported that this fund was, and continued to be, held in a financial institution account in the name of Phillip Murray. Mr. Burchell requested guidance from ENS as Mr. Murray was getting his affairs in order and was seeking a way to disassociate himself from this fund and the \$42,000 contained therein.

Investigation

Mr. Burchell informed ENS that this separate fund was established by Mr. Murray, for the express purpose of preserving the funds, as there were concerns that the funds would be misused by the executive of the EDA. He stated that Mr. Murray first established the fund with \$6,253 after the provincial general election held in 1993, and \$29,210 was added to

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the fund following the provincial general election held in 1998. In 2003, the campaign ended in a deficit resulting in a reduction in the fund by \$2,068. Mr. Burchell further advised that the fund was subsequently used by Mr. Murray as “seed money” in the form of loans for Liberal candidates running in the electoral district of Northside Westmount in the provincial general elections held in 2013 and 2017 and in the by-election held in that district in 2011. Relevant sections of the *Act* are included in Appendix A.

Evidence gathered in the course of the ENS investigation further demonstrates the following:

- Details of contributions for each of the campaigns in 1993, 1998 and 2003 provided to ENS suggest that the contributions, election expenditures and record keeping by the official agents of the Liberal candidates who ran in each of those elections appear to have been properly recorded and disclosed to ENS in accordance with the legislation in effect at that time.
- Despite the legislated requirement for transferring all excess funds in a candidate’s account to the EDA after an election, Mr. Murray sequestered the excess funds after the 1993, 1998 and 2003 electoral events into a separate account for which he was a signing authority.
- The fund was never reported in the annual filings of the Nova Scotia Liberal Party electoral district associations where the funds were raised and used as “seed money” (Cape Breton North EDA for the period of 1993 to 2012, and Northside Westmount EDA from 2013).
- Bank statements from the period 1998 to 2017 confirm the fund which is in Mr. Murray’s possession currently holds \$42,091.28. Taxes on the investment income on the fund were paid by Mr. Murray and are not reflected in the current balance.
- Bank statements confirm that the fund held by Mr. Murray was used periodically by Mr. Murray to provide “seed money” for campaigns in the form of loans to candidates’ official agents.
- Evidence was found for the following loans:

Date	Event	Candidate	Loan Amount
May 25 th , 2011	By-election	Brian McGean	\$20,000
May 13 th , 2013	General Election	John Higgins	\$10,000
September 11 th , 2013	General Election	John Higgins	\$12,500
May 24 th , 2017	General Election	John Higgins	\$5,000

- Each of these loans were repaid to Mr. Murray in accordance with the legislative requirements of the day.
- Evidence suggests that because Mr. Murray has signing authority for the account and has been personally paying the taxes on the investment income accrued to the fund, he therefore personally made the loans to the candidates’ official agents in question.
- In January 2013, Mr. Murray, with Hector DiPersio, then President of the Liberal EDA for Northside Westmount, attempted to close the bank account and send the funds to the Northside Westmount EDA.
- The EDA did not accept the bank draft. Based on information provided by Brian McGean, a principal officer, and John Higgins, the official agent of the Northside Westmount EDA in 2013, the EDA rejected the bank draft because it was payable to Cape Breton North EDA, which no longer existed.
- There is no evidence to suggest that Mr. Murray tried to reissue the bank draft to the Northside Westmount EDA.

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- Despite having knowledge in 2013 of the fund and that it is rightfully the property of the Northside Westmount Liberal EDA, John Higgins, the EDA's official agent, did not acknowledge the existence of the fund in the EDA's 2013 annual financial report or subsequent annual reports submitted to ENS.
- The EDA President, Hector DiPersio, passed away in December 2017 and as such, could not be interviewed on the above noted events.

During the course of the CEO's investigation, the following correspondence was sent and received:

- On October 13th, 2017 ENS sent a letter to Mr. Burchell requesting information and documentation related to the "fund". A deadline of November 15th, 2017 was established for a response.
- On December 6th, 2017, a Fax was received from Mr. Burchell stating that he was working on gathering the information.
- On December 7th, 2017, ENS sent a letter to Mr. Burchell extending his deadline to January 12th, 2018.
- On January 22nd, 2018, a courier package including documentation related to the fund was received at ENS from Mr. Burchell dated January 18th, 2018. A second package from Mr. Burchell, dated February 5th, 2018 was received at ENS.
- On February 22nd, 2018, a meeting was held with the RCMP at ENS head office to discuss an investigation and referral to the Public Prosecution Service for possible prosecution.
- On March 2nd, 2018, ENS received a letter from the RCMP outlining the process for obtaining search warrants.
- On March 6th, 2018, ENS received a letter from the Nova Scotia Liberal Party stating that they were not aware of the "fund" until informed of said fund by Mr. Burchell, who provided them with a copy of the letter sent to him by ENS in October 2017. See a copy of this letter in Appendix B.
- On March 12th, 2018, ENS emailed a draft compliance agreement to Mr. Higgins. In subsequent conversations between ENS and Mr. Higgins, he advised that he had been in contact with Mr. Burchell regarding this matter and was not inclined to sign a compliance agreement at that time.
- On March 13th, 2018, ENS emailed and faxed a draft compliance agreement to Mr. Murray through Mr. Burchell. Mr. Burchell acknowledged receipt of the document, told ENS that he would discuss the contents with Mr. Murray and provide suggestions for wording changes to the document.
- In March 2017, a bank draft was prepared by Mr. Murray to transfer the funds in question to the Northside Westmount EDA. ENS informed both Mr. Murray, through Mr. Burchell, and Mr. Higgins that the EDA could not accept the funds because ENS considered the funds to be in Mr. Murray's personal possession and would remain so until the issues at hand had been resolved to the CEO's satisfaction in accordance with the *Act*. This decision was based on the fact that the transfer of that size - \$42,000 - would exceed Mr. Murray's personal \$5,000 annual limit for a donation permitted under Section 293 of the *Act*, and would result in a further breach of the *Act* by the EDA if it accepted the funds with this knowledge.
- In a March 28th, 2018 letter, ENS formally requested the RCMP to review the case and advise the CEO of their investigation. See a copy of this letter in Appendix C.
- On April 6th, 2018 ENS received a letter from the RCMP, explaining that they believed that a prosecution was not an available option for this case. See a copy of this letter in Appendix D.
- Several telephone conversations took place throughout this period between ENS and its counsel and Mr. Burchell, requesting updates.

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- On April 16th, 2018, a telephone conversation took place between ENS, and its counsel, Mr. Burchell and Mr. Murray. Both Mr. Burchell and Mr. Murray informed ENS that Mr. Murray refused to sign a compliance agreement.
- On April 18th, 2018, ENS sent an e-mail and left a telephone message for Mr. Higgins to contact the office to discuss the draft compliance agreement.
- On April 19th, 2018, ENS received a fax from Mr. Burchell with documentation that in November 1998, a fund had been established in the name "Phillip Murray C.A. in trust for C.B. Liberal Association".
- On April 26th, 2018, ENS emailed Mr. Burchell, Mr. Murray, Mr. Higgins, Mr. McGean, and the Liberal Party of Nova Scotia indicating that the report on findings of the investigation would be released April 27, 2018. See a copy of this email in Appendix E.
- On April 26th, 2018, Mr. Higgins sent a letter via email to ENS, stating that he disagreed with the content of the draft compliance agreement sent to him on March 12th as he had no knowledge of the money in 2011 when he agreed to take over as Treasurer of the Cape Breton North Liberal Riding Association and further stated that he did not breach the *Act* as he filed a balance sheet with ENS in prescribed form in each of the years from 2011 to 2016. Mr. Higgins requested ENS reconsider its intention to release the Report arising from the CEO's investigation and indicated his intention to discuss options with his legal counsel should ENS proceed to release the Report. Mr. Higgins attached a revised agreement to his April 26th letter in which he agreed to take corrective action to accept funds from Mr. Murray and distribute the funds with other Liberal EDAs accordingly. See a copy of this letter in Appendix F.
- On April 27th, 2018, after telephone conversations with ENS, and its counsel, Mr. Higgins signed an amended compliance agreement. See the Notice of Compliance Agreement in Appendix G.

CEO Opinion

Based on the investigation, the CEO has concluded:

1. As the official agent for the Liberal candidates contesting the general elections in 1993, 1998 and 2003, Mr. Murray knew or ought to have known his responsibilities with respect to the disposition of excess funds under the legislation of the day. Mr. Murray did not dispose of excess funds in accordance with the legislation in any of the years 1993, 1998 and 2003 and therefore, was in breach of legislation in each of those years, and in our opinion, remains in breach.
2. Neither the Cape Breton North EDA nor the Northside Westmount EDA reported the fund as an asset on their balance sheet in each year from 1993 through 2017 as required pursuant to legislation, currently Section 227(1)(a) of the *Act* pursuant to Section 227(1)(a). It is inconclusive whether members of either of the EDAs' (Cape Breton North and Northside Westmount) knew of the existence of said funds before the issuance of the bank draft by Mr. Murray in January, 2013. Hector DiPeresio, the President of the Liberal EDA for Northside Westmount, who ENS understands was involved with the attempt to transfer the funds at that time, has passed away.

Mr. Higgins, the official agent for the EDA, was aware of the existence of funds since 2013. Mr. Higgins failed to report their existence in the EDA's annual filings with ENS from 2013 through 2016.

3. In general, principal officers and official agents of an EDA have a fiduciary duty to act honestly and in good faith given the respect, trust and confidence that have been

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entrusted to them to manage the assets of the EDA. This includes the exercise of due diligence to ensure that the EDA meets its statutory reporting obligations. In the case at hand, if the fund had been controlled by the EDA, the seed money would have been provided through a transfer, rather than a personal loan, in accordance with the *Act*. The principal officers, Mr. McGean and Mr. DiPersio and official agent of the EDA, Mr. Higgins, did not fulfill their fiduciary duties in this regard.

4. In correspondence dated March 6th, 2018, the Nova Scotia Liberal Party indicated that they were not aware of the “fund” until being informed of it through a copy of the ENS letter of October 13th provided by Mr. Burchell. See letter in Appendix B. The CEO concludes that it has been sufficiently demonstrated that the Liberal Party itself was not a party to the existence of this fund.

Addressing the Breaches – Options Considered

Through the investigation, four options were considered for conclusion. These included a compliance agreement (pursuant to Section 294), public prosecution (pursuant to Section 295), a notice of non-compliance (pursuant to Section 299), or a report publishing the outcome of an investigation (pursuant to Section 291).

The first option, a compliance agreement, requires the party that breached the *Act* to admit the facts and agree to sign the agreement along with the CEO. Mr. Higgins has cooperated with ENS in this investigation, taken responsibility for his actions and signed a compliance agreement with the CEO.

Mr. Murray has refused to sign a compliance agreement, and therefore, this option could not be pursued to its logical conclusion in his case.

The second option, public prosecution, could not be pursued because, based on the review of the file by the RCMP, a decision to prosecute Mr. Murray would fail because the action would exceed time limitations set out in Section 323 of the *Act*. In Mr. Higgins' case, the RCMP advised that in their view, because the bank draft could not be accepted, he was not obliged to report on the asset. In contrast, it is ENS's opinion that Mr. Murray is in breach of the *Act* and prosecution is not prohibited given that it has been a continuing offence for Mr. Murray's failure to dispose the excess funds. It is further ENS's opinion that Mr. Higgins, although not in possession of the funds, failed to exercise due diligence as the EDA's official agent to ensure accurate reporting to ENS and disclose the fund once he became aware of it in 2013. Mr. Higgins now understands ENS position in this regard and has agreed in principle with it.

The third option would be to serve both Mr. Murray and Mr. Higgins with a notice of non-compliance. Letters of this nature are employed in situations where the CEO considers the breach minor and therefore to prosecute or to attempt to enter a compliance agreement with the offending party would not be in the interest of the public. As an example, letters are written to official agents of candidates who had minor breaches, such as issuing tax receipts for contributions received the day before the candidate's nomination paper was approved by the returning officer. It is the CEOs belief that using this option would not satisfy the public interest because:

- such notices are not, by legislation or practice, revealed publicly.
- Mr. Murray's breaches are not minor. To not disclose them would undermine the faith entrusted in ENS by the public at large and the stakeholders in the electoral process.

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- Mr. Higgins' breaches, although arguably less significant, errors of omission versus errors of commission, must be revealed to create the fulsome picture of what has transpired in this case with respect to Mr. Murray's breaches. In addition, the fiduciary responsibility of the official agents and executive of political entities is critical to the public trust, and should be acknowledged.

The fourth option, to produce this report is the remaining course of action available to the CEO within the scope of the legislative authority and as suggested above, Mr. Murray's case is serious enough to warrant a publication of the facts and the CEO's findings arising from the investigation. The intent of the *Act* pertaining to electoral finance is to ensure transparency of financial transactions, and set limits for expenditure and contributions related thereof. The approach that ENS has taken with regard to this investigation ensures the principle of transparency is upheld and public confidence in the electoral process is maintained.

As a result of the investigation, the CEO has concluded:

1. Mr. Murray breached the *Act* by not disposing of the excess funds as outlined in legislation, and holding the funds since 1993;
2. Mr. Higgins, the Official Agent for the Liberal Electoral District Association of Northside Westmount, did not report the asset on the Balance Sheet pursuant to Section 227(1)(a) of the *Act* since 2013, the earliest date ENS can confirm his knowledge of the fund's existence; Mr. Higgins has signed a compliance agreement acknowledging said breach.
3. There is no dispute by any of the involved parties that the sequestered funds held by Mr. Murray in the account outlined in this report rightfully belong to the Cape Breton North Liberal Electoral District Association and those iterations of electoral districts that followed it. The boundaries of the electoral district involved were adjusted in 2002 and 2012 based on the reports filed by two successive provincial boundaries commissions. The greater portion of the Cape Breton North Electoral District was renamed Northside Westmount in 2012. Maps showing the original district and the iterations since 1992 are shown in Appendix H.

The Chief Electoral Officer directs:

1. Mr. Murray to send the sequestered "fund" to the Liberal EDA of Northside Westmount by May 14th, 2018;
2. the EDA to accept the fund as a transfer and to provide proof to ENS that this transfer has taken place;
3. using the formula employed after the 2012 redistribution, the Northside Westmount EDA:
 - i. Apportion the fund among the districts created after the 2002 boundaries redistribution using data provided by ENS.
 - ii. Once completed, redo the calculation based on the 2012 boundaries redistribution using data provided by ENS.
 - iii. Review the calculations with the Liberal EDAs involved and receive their written acceptance of the calculations.
 - iv. Transfer funds if required to the other EDAs and provide proof to ENS that these transfers have taken place by June 30th, 2018.

Appendix A

Relevant Legislation

The Act

Under Section 291 of the *Act*, the Chief Electoral Officer may publish the outcome of an investigation where he believes it is in the public interest to do so. Section 291(1) states:

Chief Electoral Officer may publish outcome

291 (1) Where the Chief Electoral Officer believes that it is in the public interest to make public the outcome of an investigation, the Chief Electoral Officer may do so on a public website and by such other means as the Chief Electoral Officer considers appropriate, and may include in the information provided the name of the person and the nature of the matter investigated.

The following sections of the *Act* define the process for disposal of excess contributions, reporting and offences related thereof:

DISPOSAL OF EXCESS CONTRIBUTIONS

Calculation and payment

268 (1) Where the aggregate of all contributions received by an official agent of a candidate for which the official agent has issued a receipt for income tax purposes is in excess of the amount required by the candidate to pay the aggregate of

- (a) the deposit;
- (b) election expenses;
- (c) auditor's fees in excess of the amount for which reimbursement is provided; and
- (d) costs with respect to a recount incurred by the candidate in relation to the election, the amount of such excess must be paid by the official agent
- (e) where the political affiliation of the candidate is shown on the ballot paper as a registered party, to any local organization or association of members of the party in the electoral district of the candidate or, where there is no local organization or association, to the official agent of the registered party; or
- (f) in any other case, to the Minister of Finance
 - (i) within one month after the candidate receives the candidate's reimbursement of election expenses pursuant to this Act, or
 - (ii) where the candidate is not entitled to reimbursement, within two months after the filing by the official agent of the election expense report.

Annual financial report

227 (1) An electoral district association shall file with the Chief Electoral Officer in the prescribed form, an annual financial report including

- (a) a balance sheet;
- (b) a statement of income and expense;
- (c) a disclosure statement pursuant to Section 240;
- (ca) a statement of interest accrued on amounts deposited pursuant to subsection 237A(2);
- (d) a statement of transfers pursuant to Sections 213 and 214

Offences respecting filing of reports

314 Every person is guilty of an offence who

- (a) fails to file with the Chief Electoral Officer a statement, report, return or other document or information required under this Act within the specified time period;
- (b) files with the Chief Electoral Officer a statement, report, return or other document or information which substantially fails to disclose the information required under this Act;

Appendix B
Letter from Liberal Party
March 6, 2018

Dear Mr. Gzowski:

March 06, 2018

On November 1, 2017, the Nova Scotia Liberal Party learned that an individual residing in the Northside Westmount electoral district association had contacted Elections Nova Scotia on May 9, 2017 to seek direction about how to dispose of funds held in trust for the riding association by Phil Murray. We have reviewed the financial reporting documents in the NSLP's possession from Northside Westmount and have not found any report of this trust account. Through discussions with Mr. Burchell and Elections Nova Scotia, the NSLP has learned that there is approximately \$40,000 in an account with Phil Murray as the trustee and the Northside Westmount electoral district association as beneficiary. The NSLP does not have any knowledge of the source of the funds, when the funds were obtained or the purpose for which they were used. The NSLP has not received a copy of the documents that Mr. Burchell has provided to ENS regarding this account. Accordingly, with the exception of what the NSLP has learned in discussions with Mr. Burchell and ENS, the NSLP does not know any details about the funds.

As you know, riding associations act independently of the NSLP and with the exception of copies of the annual reports required to be filed with ENS, the NSLP does not receive any other financial information from the associations.

As we explained, the NSLP is prepared to assist but, unfortunately, cannot assist in the fact-finding process.

Respectfully,



Michael Mercer
Executive Director, Nova Scotia Liberal Party

Appendix C
ENS Letter to RCMP
March 28, 2018

Street Address 7037 Mumford Road | Suite 6 | Halifax | NS | B3L 2J1
Mailing Address PO Box 2246 | Halifax | NS | B3J 3C8

Phone (902) 424-8584 | Toll free 1-800-565-1504
TTY for the hearing impaired 1-866-774-7074

Fax (902) 424-6622

Email elections@gov.ns.ca

■ www.electionsnovascotia.ca

March 28, 2018

Sergeant Scott Stafford
Royal Canadian Mounted Police
RCMP Mail Stop #H-071
80 Garland Avenue
Dartmouth, NS B3B 0J8

In May 2017, Elections Nova Scotia was contacted by Mr. William Burchell requesting guidance on a "trust fund" held by Philip Murray.

Based on my office's communications with Mr. Burchell I have found that

- In the 1993, 1998 and 2003 general elections, Mr. Murray, acted as the official agent for the Nova Scotia Liberal Party (NSLP) candidates running in the electoral district of Cape Breton North.
- Mr. Murray did not dispose of excess contributions after each of the 1993, 1998 and 2003 general elections pursuant to Section 268(1) of the *Elections Act* (the *Act*) and did not report on the disposal of the excess contributions pursuant to Section 232(1) of the *Act*.
- In 2012, after a redistribution of electoral district boundaries, approximately 95% of the Cape Breton North district was encompassed in the current Northside Westmount electoral district. A new Northside Westmount electoral district association (EDA) came into effect in early 2013.
- Mr. Murray provided a bank draft to the official agent of the Northside Westmount NSLP EDA to transfer balance of the "trust fund" to the EDA in early 2013, however, that draft was not accepted by the official agent of the EDA.
- The October 8th, 2013 provincial general election was contested on the new boundaries established for Northside Westmount.
- Mr. Higgins, the official agent for the Northside Westmount EDA, had knowledge of the "trust fund" since at least 2013 and failed to report this asset on the EDA's balance sheet from 2013 through 2017, pursuant to Sections 227(1)(a) and 240 of the *Act*.

Regarding this matter, I am requesting the RCMP to conduct an investigation under section 287 (1) of the *Act*.

Section 287 (1) The Chief Electoral Officer may, on the Chief Electoral Officer's own initiative, or at the request of another person, conduct an investigation into any matter that might constitute an offence under this Act.
(2) The Chief Electoral Officer may engage the services of any person necessary to assist with the duties of the Chief Electoral Officer pursuant to this Part.

Please contact me regarding this request for further discussion.

Best regards,

A handwritten signature in blue ink, appearing to read 'R. Temporale', with a stylized flourish at the end.

Richard P. Temporale
Chief Electoral Officer

Appendix D
RCMP response to ENS
April 6, 2018



Supt. Alfredo Bangloy
"H" Division Royal Canadian Mounted Police
Officer in Charge - Federal Criminal Operations
80 Garland Ave, Dartmouth, N.S.
B3B 0J8

Your File

Richard P. Temporale
Chief Electoral Officer
Elections Nova Scotia
7037 Mumford Road Suite 6
Halifax, NS B3L 2J1

Our File

2018-230891

2018-04-06

Elections Nova Scotia - Allegation of a breach of the Nova Scotia Elections Act

On Thursday, February 22, 2018 members of the Royal Canadian Mounted Police (RCMP) Commercial Crime Section in Nova Scotia attended the office of Elections Nova Scotia where details outlining possible breaches of the Nova Scotia Elections Act (the Act) were received. An investigator was assigned to review the details surrounding these allegations to determine whether an investigation was warranted.

After a thorough and detailed review of the available information provided by Elections Nova Scotia, the Commercial Crime Section has determined the allegations against Mr. Philip Murray fall outside of the statute of limitations of the Act. Section 323(3) of the Act states "A prosecution for an offence under this Act may be instituted not later than one year after the day on which the Chief Electoral Officer has reasonable grounds to believe that an offence under this Act has been committed, but in any case, not later than five years after the day on which the offence was committed". The allegations against Mr. Philip Murray occurred in 1993, 1998, and 2003 which fall outside of the statute of limitations.

In regards to Mr. Higgins, the information provided to the RCMP by Elections Nova Scotia does not support the allegations put forward. Section 227(1)(a) of the Act states "An electoral district association shall file with the Chief Electoral Officer in the prescribed form, an annual financial report including a balance sheet". The RCMP did not receive any information indicating Mr. Higgins failed to file a balance sheet with the Chief Electoral Officer. Secondly, section 240(2) of the Act states "On or before March 31st in each year, every official agent of an electoral district association shall file with the Chief Electoral Officer a disclosure statement

Non-sensitive

in the prescribed manner showing the full name and residential address, other than a post office box unless that is the only address available, of each contributor whose contributions received by that official agent during the previous calendar year exceed two hundred dollars in total and the amount of the total contributions by that contributor". As stated by Elections Nova Scotia in the letter to the RCMP on March 28, 2018 the "draft was not accepted by the official agent of the EDA", meaning Mr. Higgins never received the money and therefore was under no obligation to file a disclosure statement.

For these reasons, The RCMP Commercial Crime Section will not be initiating an investigation into allegations of breaches against the Nova Scotia Elections Act. The RCMP file into this matter has been closed and no further actions are anticipated.

Sincerely,



Supt. Alfredo Bangloy
"H" Division Royal Canadian Mounted Police
Officer in Charge - Federal Criminal Operations
Dartmouth, Nova Scotia

Appendix E
Email regarding Report Release
April 26, 2018

Rice, Dorothy J

From: Rice, Dorothy J
Sent: Thursday, April 26, 2018 8:52 AM
To: [REDACTED]
Cc: Temporale, Richard P; LeBlanc, Andy X
Subject: Notice of report

Good morning,

I am writing to inform you that our current plans are to release the report on our investigation findings on Mr. Murray and Mr. Higgins to the public on Friday, April 27, 2018. This is in keeping with Section 291 of the Act, which provides that the Chief Electoral Officer may publish the outcome of an investigation where he believes it is in the public interest to do so.

The report will be available on our website once it has been released.

Regards,

Dorothy Rice



Dorothy Rice, FCPA, FCMA
Managing Director, Electoral Finance

6 - 7037 Mumford Road
Halifax, NS B3L 2J1
Main: 902.424.8684
Direct: 902.424.8266
Fax: 902.424.8622
Toll Free: 800.565.1504
Website: www.electionsnovascotia.ca

PRIVILEGED COMMUNICATION:

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Appendix F
Letter from Mr. John Higgins to ENS
April 26, 2018

April 26th, 2018

Dorothy Rice
Managing Director, Electoral Finance
Elections Nova Scotia
6-7037 Mumford Road
Halifax, NS B3L 2J1

Re: Proposed Compliance Agreement – John Higgins

Dear Ms. Rice:

In regard to the Compliance Agreement that you forwarded to me via e-mail on March 12th, 2018 I am disputing the following items that you claim that I have acknowledged:

- Regarding #s 1 & 2, I did not acknowledge either of these. I had no involvement in any of these elections (1993, 1998 & 2003) and therefore I cannot comment on what the Official Agent for these elections did or didn't do.
- Regarding # 3, although it is now my understanding that there is money that was raised in previous elections during the 1990's held in Mr. Murray's name, I have never actually spoken to Mr. Murray about this and have never seen any records or bank statements to support this.

With regard to their (ENS) statement "Although the President and the Official Agent were aware of the funds after they assumed their roles in 2011, neither the Cape Breton North EDA nor the Northside-Westmount Liberal EDA reported the asset on their balance sheet in each year from 2011 through 2016 as required pursuant to Section 227(a) of the Act.", I would like to state the following:

- I had NO knowledge whatsoever of the money in question in 2011 when I agreed to take over as Treasurer for the Cape Breton North Liberal Riding Association. This contradicts the above statement from ENS.
- Section 227(a) of the Act reads as follows:

Annual financial report

227 (1) An electoral district association shall file with the Chief Electoral Officer in the prescribed form, an annual financial report including
(a) a balance sheet

A balance sheet was filed with ENS in the prescribed form (ENS Form 4-4) for each of the years 2011 through 2016. These balance sheets detailed all assets and liabilities in the name of the Cape Breton North Liberal Riding Association (2011 & 2012) and the Northside-Westmount Liberal Riding Association (2013-2016) as of December 31st for each of the years reported on. There is no breach of the Act.

I do agree to the following:

1. As Official Agent for the Northside-Westmount Liberal Riding Association, I will accept funds to be transferred to the Northside-Westmount Liberal Riding Association from Mr. Phillip Murray;
2. On receipt of the funds referred to in #1, I will divide the funds with other Liberal EDAs based on the 2002 and 2012 redistribution and further;
3. On completion of #2, I will provide documentation to the Chief Electoral Officer of the transfer of funds as soon as practicable.

As I am certain that you would want to ensure the accuracy of any information posted to your website, given the above I respectfully ask that you reconsider your intention to release the report of your investigation of this matter on your website on Friday April 27th, 2018 as you indicated to me in your e-mail of April 26th, 2018. If you do decide to release the report as suggested I will discuss my options with my legal counsel as to how to proceed with a remedy as it relates to my position.

Regards,

John Higgins

Appendix G
Notice of Compliance Agreement
Mr. John Higgins
April 27, 2018

April 27, 2018

Notice of Compliance Agreement

This notice is published by the Chief Electoral Officer of Nova Scotia, pursuant to sections 294 to 299 of the *Elections Act* (the "Act").

On April 27, 2018, and pursuant to section 294 of the *Act*, the Chief Electoral Officer entered into a Compliance Agreement with John Higgins of Sydney Mines, Nova Scotia, the Official Agent of the Liberal Party of Nova Scotia Electoral District of Northside Westmount.

In the Compliance Agreement, John Higgins acknowledged that:

- Although the Official Agent was aware of the funds in January 2013, Northside Westmount Liberal EDA did not report the asset on their balance sheet in each year from 2013 through 2016 as required pursuant to Section 227(1)(a) of the *Act*.

Under this agreement, John Higgins agrees that:

1. As official agent for the Northside Westmount EDA, he will accept funds to be transferred to the EDA from Mr. Phillip Murray;
2. On receipt of the funds referred to in #1, will divide the funds with other Liberal EDAs based on the 2002 and 2012 redistribution and further;
3. On completion of #2, will provide documentation to the Chief Electoral Officer of the transfer of funds as soon as practicable and in either event no later than May 14, 2018.

Before entering into this Compliance Agreement, the Chief Electoral Officer has taken into consideration the fact that John Higgins has responded to requests for information and documentation, cooperated with ENS and has taken responsibility for his actions or inactions that led to this Compliance Agreement.

Appendix H
Map of Electoral District
1992 to 2012

Change of Electoral Boundary 1992 to 2012

Legend

-  Cape Breton North 1992 Boundary
-  Cape Breton North 2002 Boundary
-  Northside-Westmount 2012 Boundary

