



November 28, 2022

Via Email: lavoiejpascal@gmail.com

Dear Mr. Lavoie,

Subject: Emails – “Electoral Fraud?”

I wish to acknowledge receipt of your email communications received on November 26 and 27, 2022, alleging electoral fraud was committed by a Michael Landry on behalf of candidate Bonnie Swift.

It is unclear from your communications what actions you wish pursued. However, upon review of the offence provisions of the *Municipal Elections Act*, and the text log that was provided, no offences under the legislation appear to be engaged by the behaviour referred to in this alleged exchange between Mr. Landry and Mr. Dale. I have attached to this letter, as Appendix A, text of the offences under the *Municipal Elections Act* related to bribery and coercion, campaign advertising and prohibited electioneering. Although the behaviour complained of may be considered distasteful, it does not appear to give rise to a violation of the *Municipal Elections Act*.

I also wish to ensure you are aware that as the Municipal Electoral Officer, a statutory officer of the Legislative Assembly, I only have those authorities and powers granted to me under the *Municipal Elections Act*. These are generally set out in subsection 5(2) of the Act and do not include the authority to investigate alleged violations of the *Municipal Elections Act*:

- 5(2) The Municipal Electoral Officer shall
- (a) exercise general direction and supervision over the administrative conduct of elections held under this Act;
 - (b) enforce on the part of election officers fairness, impartiality and compliance with this Act;
 - (c) issue such instructions to election officers as are necessary to ensure fair, impartial and proper conduct of elections held under this Act; and
 - (d) perform such other duties as are prescribed under this Act.

Therefore, if you believe that an offence has been committed under the *Municipal Elections Act*, I encourage you to make a complaint to the appropriate policing authority with the evidence of the alleged offence. If you believe the provisions of the *Municipal Elections Act* need to be enhanced to guard against this type of campaign behaviour, you should reach out to your member of the Legislative Assembly.

Sincerely,

Kimberly A. Poffenroth
Municipal Electoral Officer

cc: John Dale (via email)



APPENDIX A

Offences of bribery and coercion

53(1) Any person who, by himself or by any person on his behalf or in his interest, directly or indirectly

(a) gives, lends or agrees to give or lend, or offers or promises, or promises to procure or to endeavour to procure, any money or valuable consideration, to or for any voter, or to or for any person on behalf of any voter, or to or for any other person, in order to induce any voter to vote or refrain from voting, or does any such act on account of any such voter having voted or refrained from voting at any election,

(b) gives or procures, or agrees to give or procure, or offers or promises, or promises to procure or to endeavour to procure, any office, place or employment, to or for any voter, or to or for any other person, in order to induce such voter to vote or refrain from voting, or does any such act on account of any voter having voted or refrained from voting at any election,

(c) advances or pays, or causes to be paid money to or for the use of any other person, with the intent that such money or any part thereof shall be expended in bribery at an election, or knowingly pays or causes to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery at an election, or

(d) makes use of, or threatens to make use of any force, violence or restraint, in order to induce or compel any other person to vote for any candidate or to refrain from voting,

commits an offence.

53(2) Within ten days after an election an entitled voter may file with a judge of The Court of Queen's Bench of New Brunswick a petition alleging

(a) that a person committed an offence under subsection (1), and

(b) the particular acts of bribery.

Offences respecting printed advertisements

54 Every printed advertisement, handbill, placard, poster or dodger having reference to an election shall bear upon its face the name and address of its printer and its publisher, and any person printing, publishing, distributing or posting up, or causing to be printed, published, distributed or posted up, any such document unless it bears upon its face such names and addresses commits an offence.

Prohibited electioneering

55(1) Any person who furnishes or supplies any loud speaker, bunting, ensign, banner, standard or set of colours, or any other flag, to any person with intent that it shall be carried, worn or used on automobiles, trucks or other vehicles, as political propaganda, on the ordinary polling day, who, with any such intent, carries, wears or uses, on automobiles, trucks or other vehicles, any such loud speaker, bunting, ensign, banner, standard or set of colours, or any other flag, on the ordinary polling day commits an offence.



55(1.1) No person shall on the day of an advance poll or on the ordinary polling day use a loud speaker or any other device to amplify, project or convey a person's voice or a sound for the purpose of conveying political propaganda that can be heard within thirty metres of the premises in which a polling station is located.

55(2) Any person who, on the ordinary polling day or on the day immediately preceding it,

(a) broadcasts over any radio or television station,

(i) a speech,

(ii) any entertainment, or

(iii) any advertising program; or

(b) publishes or causes to be published in any newspaper, magazine or similar publication,

(i) a speech, or

(ii) any advertising; or

(c) transmits, conveys or causes to be transmitted or conveyed by any means to telephones, computers, telecopier machines or any other device capable of receiving unsolicited communications,

(i) a speech,

(ii) any entertainment, or

(iii) any advertising;

in favour of or on behalf of any candidate commits an offence, but this subsection shall be deemed not to prohibit a *bona fide* news broadcast or news publication referring to or commenting upon a speech or containing any excerpts from a speech.

55(3) Any person who uses, aids, abets, counsels or procures the use of,

(a) any radio or television station,

(b) any newspaper, magazine or similar publication, or

(c) any means of transmitting or conveying communications to telephones, computers, telecopier machines or any other device capable of receiving unsolicited communications,

outside New Brunswick on the ordinary polling day or on the day immediately preceding it for the broadcasting, publication, transmission or conveyance of any matter having reference to the election a candidate or a matter to be voted on at a plebiscite commits an offence.

55(4) Any person who, on the day of an advance poll or on the ordinary polling day, displays or causes to be displayed on the premises in which a polling station is located or within thirty metres of the said premises any advertisement, handbill, placard, poster, dodger, billboard, electronic billboard or any other means of display having reference to an election, a candidate or a matter to be voted on at a plebiscite commits an offence.