

October 23, 2018

Lorne R. Gibson  
Election Commissioner of Alberta  
805-10011 109th Street NW  
Edmonton, Alberta  
T5J 3S8

Dear Mr. Gibson,

I write to request your immediate investigation into serious violations of the *Election Finances and Contributions Disclosure Act* ("EFCDA") that I believe are being committed by Jason Kenney, the United Conservative Party, a third-party Political Action Committee called "Shaping Alberta's Future", and a third-party association, the Motor Dealers' Association of Alberta (MDA).

Political Action Committee – "Shaping Alberta's Future"

On the website of "Shaping Alberta's Future", the PAC lists information on how they intend to operate. They state, at [https://www.shapingalberta.ca/information\\_for\\_donors](https://www.shapingalberta.ca/information_for_donors), their intentions are to "promote Jason Kenney and the United Conservative Party." This includes:

- **Opposition research** – including the research of solely **NDP candidates**
- **Political Organizing** – involving "constituency work"
- **Volunteer engagement** – including **booking rooms, supplies, recruiting and training**
- **Canvassing** – involving **door knocking, telephone, tele-town halls** and literature

They explicitly describe financial contributions to their PAC as a way to avoid election financing rules that restrict large individual and corporate contributions to political parties.

They intend to collect 50 per cent of their operating funds without disclosing those contributions to Elections Alberta. They write:

**There is an option to contribute to the *Shaping Alberta's Future* to pay for non-political advertising expenses such as overhead. If you choose this option, there is no requirement to provide your name and information to Elections Alberta. Contributions may be spent on, among other things, door knocking in targeted ridings, opposition research and public opinion research.**

They also intend to accept donations from corporations:

***Shaping Alberta's Future* accepts contributions from individuals and corporate entities alike.**

And to circumvent the \$4,000 donation limit:

**Unlike the \$4,000 donation limit for registered political parties and candidates, there is NO contribution limit when contributing to *Shaping Alberta's Future*.**

This PAC is undertaking its work entirely for the purpose of doing the work of a political party. The website notes:

**One hundred per cent of donor contributions are spent by us on efforts to promote Jason Kenney and the United Conservative Party.**

This conduct is a clear violation of the law.

The EFCDA does not permit a third-party to accept or spend money to promote a political party and its leader except by following the rules for political advertising. The activities this PAC is conducting are all either political advertising and subject to disclosure or are activities to support the work of a registered party that are prohibited s. 41.41. These activities are being conducted in order to circumvent party expense and contribution rules and are therefore also prohibited by s. 41.42.

There is no category of “overhead” that can be used to get around the rules.

The *Act* defines “political advertising” at s 44.1(1.3) as including canvassing and organizing events. Door knocking, political organizing, and volunteer engagement all fall into this category. Money collected and spent for these purposes must be reported as political advertising.

The *Act* specifies at s. 41.41 activities that are not considered political advertising but rather are simply prohibited for third parties. This includes fundraising, collecting information about electors or potential electors that is shared with a political party, and “any other activity that would otherwise be part of the administrative activity of a registered party”. Section 41.42 further prohibits colluding with a political party to circumvent an expense limit. All of the activities this PAC is conducting that are not political advertising, are prohibited by these sections.

This PAC is effectively acting as a fundraising apparatus for the UCP. It is collecting information about electors or potential electors through polling and research. It is funding “overhead” and other services to support these activities. The website attempts to characterize some of these activities as “non-political” and therefore permissible. However, that claim is entirely inconsistent with the actual activities described and with the commitment to spend 100 per cent of donations promoting Jason Kenney and the UCP.

Fundamentally, this PAC is raising and spending money to engage in the core business of a political party. That includes activities such as door knocking, recruiting volunteers, constituency work, training, opposition research, and the production of campaign literature. This is a blatant attempt to circumvent the expense and contribution rules of normal party work. Repeatedly, they detail how they will undertake such work “to promote Jason Kenney and the United Conservative Party” but without following the rules that apply to Jason Kenney and the UCP.

#### Jason Kenney and the UCP.

Section 41.42(1) prohibits a registered party from colluding with a third-party in order to circumvent or attempt to circumvent an expense limit or a contribution limit. Political parties are also prohibited from accepting contributions in violation of the EFCDA.

As described above, all of the activities of the Shaping Alberta’s Future PAC are designed to benefit Jason Kenney and the UCP. It is not credible that those activities are being conducted without the knowledge or approval of the UCP or that information that is being collected by the PAC is not being shared with the UCP.

As further evidence that the PAC is operating with the full knowledge and support of the UCP and that this support is part of a deliberate effort to circumvent the election rules, a recent letter (attached) to

members of the MDA from the Chair of the MDA describes a meeting that occurred with UCP leader Jason Kenney. The letter says:

**Mr. Kenney also shared one of his biggest challenges he and his colleagues will face leading up to the election.**

**Sources inform him that the NDP party has amassed an election war chest in the \$7 to \$8 million range. The NDP has legislated changes to the election spending rules. During the writ period of the election, all parties are capped at a \$2 million level and only personal donations up to \$4,000 can be accepted per calendar year.**

**Elections Alberta allows for Third Party advertisers. There is no cap on the amount of contributions.**

The letter goes on to outline the MDA decision to contribute \$100,000 to Shaping Alberta's Future, described as the "UCP 3<sup>rd</sup> party advertising campaign". The letter also solicits similar contributions from dealer members of the MDA.

This call for contributions to support the UCP was done at Mr. Kenney's request and deliberately to circumvent the election financing rules by funnelling money through a third-party PAC – money that could not be donated directly to the UCP by an association like the MDA or its corporate members, and that would otherwise violate the individual contribution limits.

#### The MDA

The letter from the MDA Chair to MDA members goes on to say

**The MDA made two motions:**

**1) That the MDA contribute \$100,000.00 to the Shaping Alberta's Future political action company to assist in the UCP 3rd party advertising campaign.**

**2) That the MDA solicit its dealer members to contribute to Shaping Alberta's Future. The MDA's goal donation is \$1,000,000.00. They suggest that each MDA dealership write a cheque in the amount of \$5,000.00. All the dealers at the MDA Board meeting committed to a contribution of \$5,000 for each of their dealerships and they encourage all member dealers to do the same prior to October 15, 2018.**

**All cheques are to be made payable to: Shaping Alberta's Future  
And mailed to the MDA office at:**

**6248 - 50 Street  
Edmonton, AB. T6B 2N7**

**The MDA will post the contribution numbers on a weekly basis so members can see the fundraising results.**

To my knowledge, the MDA is not registered as a third-party for the purpose of conducting political advertising. Section 9.1 of the EFCDA requires a third-party to apply for registration when it has accepted or plans to accept advertising contributions of at least \$1,000. They clearly are both accepting and planning to accept contributions in excess of that threshold. They cannot avoid those obligations by attempting to conduct those activities on behalf of the UCP through a different third-party.

In addition to the violations described above in relation to "Shaping Alberta's Future", the MDA is effectively making contributions to a political party contrary to sections 15 and 16, is engaging in fundraising for a registered party contrary to s. 41.41, and is colluding with a registered party to circumvent or attempt to circumvent expense and contribution limits.

## Penalties

The activities described in this letter and attachments are not minor or innocent errors being committed in the course of navigating new rules. The activities are self-described as a deliberate strategy to avoid the limitations of the election financing law. These are severe and wilful violations, designed to give the UCP a real financial advantage including large contributions from corporate entities.

The response should be substantive penalties, sufficient to provide real deterrence and ensure that these unlawful activities are not permitted to interfere with the electoral process.

I look forward to your early response.

Sincerely,

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

Roari Richardson  
Provincial Secretary  
Alberta's New Democrats