



MEDIA STATEMENT

CRIMINAL JUSTICE BRANCH

April 08, 2011

11-06

Decision Announced in Vancouver-Fraserview Review

Victoria – The Criminal Justice Branch of the Ministry of Attorney General today announced that Special Prosecutor, Peter Wilson, QC, has approved charges under the *Election Act* and the *Criminal Code* following an investigation into possible offences alleged to have occurred in relation to the election campaign of Kash Heed in the Vancouver-Fraserview riding. The investigation was conducted by the RCMP and centred on the production and distribution of three election pamphlets, on the election financing report, and on certain payments made by Mr. Heed to former campaign staffers following the 2009 General Election. Charges have been approved against Barinder Sall and Dinesh Khanna. No charges have been approved against Kash Heed or Satpal Johl.

An initial charge assessment review in this matter was conducted by Terrence Robertson, Q.C, who subsequently resigned his appointment on May 4, 2010. Mr. Wilson conducted a fresh review of the investigative file after Mr. Robertson stepped down. Since Mr. Robertson's original decision, a significant volume of new evidence was gathered by investigators. This resulted in investigators recommending charges beyond those originally recommended to Mr. Robertson.

In reporting the results of this review to the Assistant Deputy Attorney General, Mr. Wilson noted "I find no fault with the previous decision of Mr. Robertson. Based on the much more extensive materials provided to me, I have in a small number of instances not approved counts which he approved, and I have approved some additional charges that were not recommended to Mr. Robertson."

Ten counts in total have been approved against Mr. Barinder Sall, including seven counts under the *Election Act* and three counts under the *Criminal Code*. A total of four counts have been approved against Dinesh Khanna, three counts under the *Election Act* and one count under the *Criminal Code*. The formerly approved count under the *Election Act* against Mr. Satpal Johl has not been approved and will be stayed by Mr. Wilson. The stay of proceedings is prompted by a review of information that was unavailable when the charge was originally approved. A list of all of the approved charges is found [attached](#) to this media statement.

Criminal Justice Branch HQ
Ministry of Attorney General

Mailing Address:
PO Box 9276 Stn Prov Govt
Victoria, BC V8W 9J7

Office Location:
9th Floor, 1001 Douglas Street
Victoria, BC V8W 9J7
Telephone: (250) 387-3840
Fax: (250) 387-0090

The Special Prosecutor has not approved any charges against Mr. Heed. Based upon the evidence reviewed by the Special Prosecutor, there is insufficient proof that Mr. Heed was involved in the production of pamphlets, that he knew of or was involved in filing a false election financing report, or that Mr. Heed knowingly made payments to campaign staff for election-related purposes following the 2009 General Election.

The Special Prosecutor considered whether under section 266 of the *Election Act*, Mr. Heed would be found to have committed the offence of filing a false Election Financing Report. Under that section of the *Election Act*, an individual is not guilty of an offence if that person did not know that the information in an election financing report was false or misleading and, with the exercise of reasonable diligence, could not have known that it was false or misleading. There is no reliable, independent evidence proving that Mr. Heed knew of, or could with reasonable diligence have learned of, any unreported election expenses.

The Special Prosecutor also considered whether charges were warranted against Mr. Heed for criminal breach of trust for payments amounting to \$6000 made by Mr. Heed to Barinder Sall and Sameer Ismail on June 24, 2009. On the evidence reviewed by the Special Prosecutor, there is no reliable, independent evidence proving that Mr. Heed made payments to these individuals for election-related purposes.

The Special Prosecutor has, in the majority of instances, approved the same charges formerly approved by Mr. Robertson. In some instances, because of the more extensive information provided to him, the Special Prosecutor has declined to approve certain counts or has approved additional or alternative counts that are supported by the new evidence.

Mr. Wilson is a senior Vancouver lawyer who was appointed on May 7, 2010 by the Assistant Deputy Attorney General, Robert W.G. Gillen, Q.C. to conduct a fresh charge assessment review in connection with this investigation. Mr. Wilson's mandate included:

- Discussing with the police investigator, or any other investigating officer assigned to this case, matters on which they required prosecutorial advice and offering such legal advice as the investigators might require during the course of their investigation;
- Reviewing legal advice provided to the police by the previous Special Prosecutor, and reaching such conclusions and offering such additional advice as he deemed necessary in relation to any such previous advice;
- Conducting a fresh independent review of the Report to Crown Counsel prepared by police in this matter, without regard for the charge assessment decisions made by Mr. Robertson, and if his assessment differed from that of Mr. Robertson, taking whatever action which he deemed appropriate in the independent exercise of his prosecutorial discretion, and in accordance with Criminal Justice Branch policies and the Memorandum of Understanding between the Criminal Justice Branch and the Chief Electoral Officer governing referrals from the Chief Electoral Officer to the Criminal Justice Branch.

- Providing a written report to the Assistant Deputy Attorney General with the reasons for any charge assessment decision; and
- If in his view a prosecution was warranted, conducting the prosecution and any subsequent appeal.

In accordance with the mandate granted previously, Mr. Wilson will now continue with the conduct of the prosecution.

This Media Statement has been reviewed by Mr. Wilson, who has approved its release.

As the matter is now before the Court, additional details with respect to the investigation cannot be released at this time.

Media Contact: Neil MacKenzie
Criminal Justice Branch
(250) 387-5169

Peter Wilson, Q.C.
Special Prosecutor
(604) 684-4751

Charges – Appendix to CJB Media Statement 11-06

Barinder SALL

Election Act Charges

1. 264(1)(b) *Election Act*
(Publishing election advertising without identifying the sponsor)
2. 265(1)(e) *Election Act*
(Obstruction of an Election Official under the *Election Act* by telling a false story)
3. 265(1)(e) *Election Act*
(Obstruction of the RCMP under the *Election Act* by telling a false story)
4. s.193(4) & 263 *Election Act*
(Paying an election expense, advertising, other than through a financial agent)
5. 230 & 264 *Election Act*
(Sponsoring election advertising with the property of another individual)
6. 266(1)(a) *Election Act*
(Filing a misleading Advertising Sponsor Disclosure Report)
7. 266(1)(a) *Election Act*
(Filing a misleading Advertising Sponsor Disclosure Report)

Criminal Code Charges

1. s.139(2) *Criminal Code*
(Obstruction of the RCMP by fabricating a story and arranging to provide it to investigators)
2. s.366(1)(b) *Criminal Code*
(Forgery: making a false document with the intent that Elections BC act upon it)
3. s.366(1)(b) *Criminal Code*
(Forgery: making a false document with the intent that Elections BC act upon it)

Dinesh KHANNA

Election Act Charges

1. 264(1)(b) *Election Act*
(Publishing election advertising without identifying the sponsor)
2. 265(1)(e) *Election Act*
(Obstruction of an Election Official under the *Election Act* by telling a false story)
3. 265(1)(e) *Election Act*
(Obstruction of the RCMP under the *Election Act* by telling a false story)

Criminal Code Charges

1. s.139(2) *Criminal Code*
(Obstruction of the RCMP under the *Criminal Code* by telling a false story)